



ADMINISTRATOR PRUITT SPEAKER REQUEST FORM
U.S. Environmental Protection Agency

Person to contact for speechwriting purposes: Lisa Wallenda Picard, Vice President, NTF
lpicard@turkeyfed.org
202 898 0100
703 431 5764

Person to contact for media purposes: Keith Williams
Keeth.Williams@turkeyfed.org
202 898 0100

Origin of Invitation: Lisa Wallenda Picard, Vice President, NTF
lpicard@turkeyfed.org
202 898 0100
703 431 5764

Day of Event Point of Contact: Jennifer Zukowski Dansereau
JDansereau@turkeyfed.org
202 898 0100
5082212763

Security Contact: Jennifer Zukowski Dansereau
JDansereau@turkeyfed.org
202 898 0100
5082212763

Is the organization or host of the event a registered 501(c)(3), (4), or has a 527 Political Action Committee (PAC): NTF is a 501 c 6. We do have a PAC but this is not a PAC event.

Will there be a presentation of a "gift" to the Administrator? No

If so, what is the US currency value of the gift? N/A

Will a meal be provided, if so what is the US currency value? Breakfast available if desired – value TBD

Please return this form completed to scheduling@epa.gov and Sydney Hupp (hupp.sydney@epa.gov).

To: Pruitt, Scott[Pruitt.Scott@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]; Miller, Beth[Miller.Beth@epa.gov]; Miller, BettyJo[Miller.Bettyjo@epa.gov]; Miller, Clay[Miller.Clay@epa.gov]; Miller, Dale[Miller.Dale@epa.gov]; Oczkowski, Autumn[Oczkowski.Autumn@epa.gov]; Miller, David[Miller.DavidJ@epa.gov]; Miller.dorothy@Epa.gov[Miller.dorothy@Epa.gov]; Miller, Gregory[Miller.Gregory@epa.gov]; Miller, Jesse A.[Miller.JesseA@epa.gov]; Miller, Jesse[Miller.Jesse@epa.gov]
From: Cheryl Wanko
Sent: Wed 10/25/2017 12:07:52 PM
Subject: Allowing scientific discussion

Secretary Pruitt:

Many Americans who value science, the environment, and the lives of humans and other species are concerned about your multiple efforts to silence climate scientists in the EPA. The current flagrant occurrence of censorship was your denying three EPA scientists from speaking at the State of the Narragansett Bay and Watershed Conference this week. There is no reason the EPA, as a scientific policy and protection administration, should be preventing the distribution of scientific knowledge to the American people.

In addition to your other actions as EPA secretary, this most recent one shows that you are aware that science proves the existence of human-caused climate change, and that you are aware that we must adjust both present practice and future planning to meet the challenges of the increasing danger. There is no reason why you would take such pains to staunch the free flow of ideas unless you knew they were true ones that threatened the status quo of the wealthy and powerful of our nation. Censorship is not what the United States is about, and we are worried that you are part of a leadership that will move our country into continuing fear and ignorance.

Please explain to us why you are silencing scientists.

US citizens want to know.

Cheryl Wanko
994 Stargazers Rd
Coatesville PA 19320

To: Grantham, Nancy[Grantham.Nancy@epa.gov]; Freire, JP[Freire.JP@epa.gov]
Cc: Leah Varjacques[lvarjacques@theatlantic.com]; Flynn, Mike[Flynn.Mike@epa.gov]; Reeder, John[Reeder.John@epa.gov]; Breen, Barry[Breen.Barry@epa.gov]; Brian Jimenez[bjimenez@theatlantic.com]; Pruitt, Scott[Pruitt.Scott@epa.gov]
From: Ashley Kenny
Sent: Tue 5/30/2017 6:17:41 PM
Subject: Re: IMPORTANT: Rescheduling Interview with The Atlantic

Hi all,
Is it possible to confirm our interview for this week? Is the EPA refusing to comment? We simply need confirmation one way or another.

Best,
Ashley

Ashley Bloom Kenny
Senior Producer, *The Atlantic*
202.266.7963 | 248.229.7795

On Thu, May 25, 2017 at 6:38 PM, Ashley Kenny <akenny@theatlantic.com> wrote:

Dear JP and Nancy:

For three weeks now, you have been in correspondence with one of my producers, Leah Varjacques, about rescheduling our interview with the Administrator. As you know, our interview was canceled at the last minute with three members of our team already through security and waiting in the lobby of the EPA headquarters. I am eager to get this interview rescheduled. We only need 15 minutes for the interview. Please respond with available dates and times. Thank you.

Best,
Ashley

Ashley Bloom Kenny
Senior Producer, *The Atlantic*
[202.266.7963](tel:202.266.7963) | [248.229.7795](tel:248.229.7795)

To: Scott Taylor[scotttaylor@sbgvtv.com]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Press[Press@epa.gov]; schaffer, joan[schafer.joan@epa.gov]
From: Wilcox, Jahan
Sent: Wed 11/29/2017 7:31:28 PM
Subject: RE: ABC 7 NEWS : Administrator Scott Pruitt's Public Appearances in 2017 and 2018

You're always welcome to submit FOIA. Here is the link:
<https://foiaonline.regulations.gov/foia/action/public/request/publicPreCreate>.

From: Scott Taylor [mailto:scotttaylor@sbgvtv.com]
Sent: Wednesday, November 29, 2017 2:13 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Pruitt, Scott <Pruitt.Scott@epa.gov>; Press <Press@epa.gov>; schaffer, joan <schafer.joan@epa.gov>
Subject: RE: ABC 7 NEWS : Administrator Scott Pruitt's Public Appearances in 2017 and 2018

Jahan,

You mentioned that "You can't FOIA the future, because nobody knows what the future holds". It appears that the U.S. Department of Education can look into the future with their Director and are transparent with her upcoming schedule on its website. We would hope the EPA follows the same transparency in the future as I was told that it would over the phone by the EPA.

I did FOIA your Administrator's schedule for a 2nd time.

Schedule of U.S. Secretary of Education Betsy DeVos

Monday, November 27 - Friday, December 1, 2017
(Schedule subject to change.)

Monday, November 27

School Visits with Congressman Francis Rooney—Florida SouthWestern State College (Fort Myers, FL)
& Lake Park Elementary (Naples, FL)

Tuesday, November 28

Remarks—Federal Student Aid Training Conference
School Visit—Georgia State University (Atlanta, GA)

Wednesday, November 29

School Visit – Oakland High School (Murfreesboro, TN)

Thursday, November 30

Remarks—ExcelinEd 2017 National Summit on Education Reform

Friday, December 1

Currently no public events scheduled at this time.

Thanks!

Scott Taylor

Investigative Reporter

ABC 7 NEWS

WJLA TV

Washington, D.C.

571-458-6080

scotttaylor@sbgstv.com

Twitter: @ScottTaylorTV

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From: Wilcox, Jahan [<mailto:wilcox.jahan@epa.gov>]
Sent: Monday, November 20, 2017 4:36 PM
To: Scott Taylor <scotttaylor@sbgvtv.com>
Cc: Pruitt, Scott <Pruitt.Scott@epa.gov>; Press <Press@epa.gov>; schaffer, joan <schafer.joan@epa.gov>
Subject: Re: ABC 7 NEWS : Administrator Scott Pruitt's Public Appearances in 2017 and 2018

Scott -

I was referring to your inquiry in June 2017 to speak with EPA Administrator Gina McCarthy who left the agency months ago.

I answered your question again and again, which is you can't FOIA the future but every meeting that Administrator Pruitt attends is available at www.epa.gov.

I hope you have a great Thanksgiving and tell your colleague Nathan Bacca I said hi.

Best

Jahan

Sent from my iPhone

On Nov 20, 2017, at 3:26 PM, Scott Taylor <scotttaylor@sbgtn.com> wrote:

Jahan,

Being rude and not answering my questions plus taking a personal shot at me by saying "You don't know what you are talking about" during our phone call today won't stop ABC 7 News from again making a simple request.

You also hung up on me. Is this how you behave with Reporters asking questions? Is this the way you want the EPA to be represented in the media and with the public?

Please forward me your Administrator's public event schedule for the remainder of the year.

I understand that you will probably not honor our request so for the 2nd time we have submitted a FOIA request.

Enjoy your Holiday,

Scott Taylor

Investigative Reporter

ABC 7 NEWS

WJLA TV

Washington, D.C.

571-458-6080

scotttaylor@sbgstv.com

Twitter: @ScottTaylorTV

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From: Wilcox, Jahan [<mailto:wilcox.jahan@epa.gov>]

Sent: Monday, November 20, 2017 4:03 PM

To: Scott Taylor <scotttaylor@sbgstv.com>

Cc: Press <Press@epa.gov>; schaffer, joan <schaffer.joan@epa.gov>

Subject: Re: ABC 7 NEWS : Administrator Scott Pruitt's Public Appearances in 2017 and 2018

Scott -

You put the press shop on this email when you typed in press@epa.gov into the email.

Senior Comms Advisor is my title and my cell is 202.309.0934

Best

Jahan

Sent from my iPhone

On Nov 20, 2017, at 2:31 PM, Scott Taylor <scotttaylor@sbgstv.com> wrote:

Jahan,

Curious... why are you responding when I was directing my email to Joan who is the EPA rep for DC ?

Can you give me your title again and phone number? It's not in your email.

Thanks for your help!

Scott

From: Wilcox, Jahan [<mailto:wilcox.jahan@epa.gov>]

Sent: Monday, November 20, 2017 3:22 PM

To: Scott Taylor <scotttaylor@sbgstv.com>

Cc: schaffer, joan <schafer.joan@epa.gov>; Press <Press@epa.gov>

Subject: Re: ABC 7 NEWS : Administrator Scott Pruitt's Public Appearances in 2017 and 2018

Scott -

You can't FOIA the future, because nobody knows what the future holds. All of the meetings that Administrator Pruitt has attended is available at www.epa.gov.

On Nov 20, 2017, at 2:14 PM, Scott Taylor <scotttaylor@sbgvtv.com> wrote:

Joan,

I put in a FOIA request on August 8th, 2017 to get a copy of Scott Pruitt's future public speaking/event appearances for the remainder of the year. It wasn't filled but I got a call from the EPA telling me it didn't need to be filled because Pruitt's schedule would be posted on the website. That has not happened.

Can you help me? I now would like 2018 too.

Trying to obtain @EPAScottPruitt future public appearances or events.
@jahanwilcox, EPA Strategic Communications Advisor just hung up on me saying the EPA doesn't have a record of the future.

Thanks!

Scott Taylor

Investigative Reporter

ABC 7 NEWS

WJLA TV

Washington, D.C.

571-458-6080

scotttaylor@sbgvtv.com

Twitter: @ScottTaylorTV

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To: Munoz, Charles[munoz.charles@epa.gov]
Cc: Kreutzer, David[kreutzer.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Benton, Donald[benton.donald@epa.gov]; Konkus, John[konkus.john@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Pruitt, Scott[Pruitt.Scott@epa.gov]
From: Bangerter, Layne
Sent: Thur 3/30/2017 12:23:21 AM
Subject: Re: Leaving EPA

You are a friend, brother and Patriot and I am grateful our paths have crossed at this important and historical time. Thanks for all the good you've done thanks for your laughter and your good work and influence. God bless you.

Layne Bangerter

Sent from my iPhone

On Mar 29, 2017, at 6:00 PM, Munoz, Charles <munoz.charles@epa.gov> wrote:

Thank you for everything over the last 3 months, David. Heritage is lucky to have you back.

On a business note, we need to talk about off-boarding you so please call me anytime tomorrow morning to finalize everything.

Thank you,
Charles Munoz

Sent from my iPhone

On Mar 29, 2017, at 5:49 PM, Kreutzer, David <kreutzer.david@epa.gov> wrote:

My old boss at Heritage called me yesterday about a new position they've created. We talked at lunch today and he offered me the job, which I just accepted. It has a bigger sandbox to play in than my previous job. I'll be doing productivity and economic growth more generally with an emphasis on labor and trade. Of course, you can't talk about productivity and economic growth with talking about energy. So, I will still have a toe in the energy pool.

My last day here will be Friday, after which I'll take a week off and then start at

Heritage on the 10th. I still believe that the Pruitt EPA has the most important mission in DC for carrying out the drain-the-swamp, cut-the-regs, and create-the-jobs conservative revolution. I wish you all the best in carrying out that mission.

Sincerely,

David

David W. Kreutzer, Ph.D.

202.564.3113

To: Bangerter, Layne[bangerter.layne@epa.gov]; Munoz, Charles[munoz.charles@epa.gov]
Cc: Kreutzer, David[kreutzer.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Freire, JP[Freire.JP@epa.gov]; Davis, Patrick[davis.patrick@epa.gov]; Konkus, John[konkus.john@epa.gov]; Sugiyama, George[sugiyama.george@epa.gov]; Greaves, Holly[greaves.holly@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Pruitt, Scott[Pruitt.Scott@epa.gov]; Ericksen, Doug[ericksen.doug@epa.gov]
From: Benton, Donald
Sent: Thur 3/30/2017 2:53:58 AM
Subject: Re: Leaving EPA

David,

We will all miss you, your positive attitude and your tremendous intellect . You have been an incredible asset here and never forget that you were part of a very special team that helped ignite the next industrial revolution in America. Your level of commitment, dedication and intelligence will be impossible to replace. You truly have Made America Great Again!

Good luck and my best wishes go with you always.

Thank you,

Don

Senator Don Benton

Senior White House Advisor

From: Bangerter, Layne
Sent: Wednesday, March 29, 2017 5:23 PM
To: Munoz, Charles
Cc: Kreutzer, David; Dravis, Samantha; Bolen, Brittany; Gunasekara, Mandy; Greenwalt, Sarah; Jackson, Ryan; Freire, JP; Davis, Patrick; Benton, Donald; Konkus, John; Sugiyama, George; Greaves, Holly; Schwab, Justin; Pruitt, Scott
Subject: Re: Leaving EPA

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Sent from my iPhone

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Sincerely,

David

David W. Kreutzer, Ph.D.

202.564.3113

To: Bloom, David[Bloom.David@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; Osborne, Howard[Osborne.Howard@epa.gov]; Conklin, Jeanne[Conklin.Jeanne@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Elkins, Arthur[Elkins.Arthur@epa.gov]; Sheehan, Charles[Sheehan.Charles@epa.gov]; Larsen, Alan[Larsen.Alan@epa.gov]; Christensen, Kevin[Christensen.Kevin@epa.gov]; Copper, Carolyn[Copper.Carolyn@epa.gov]; Sullivan, Patrick F.[Sullivan.Patrick@epa.gov]; Shields, Edward[Shields.Ed@epa.gov]; Eyermann, Richard[Eyermann.Richard@epa.gov]; Kaplan, Jennifer[Kaplan.Jennifer@epa.gov]; Lagda, Jeffrey[Lagda.Jeffrey@epa.gov]; Elbaum, Kentia[elbaum.kentia@epa.gov]; Trefry, John[Trefry.John@epa.gov]; Bennett, Angela[Bennett.Angela@epa.gov]
From: Wong, Lela
Sent: Fri 10/6/2017 7:02:33 PM
Subject: RE: Amended Notification Memo--Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
Amended Notification Memo for Audit of Administrator's Travel Issued 10.5.17 rev.docx

Hi All,

Attached is a revised amended notification memo to correct a typo in the version I sent out this morning.

Thanks!

Lela

From: Wong, Lela
Sent: Friday, October 06, 2017 7:52 AM
To: Bloom, David <Bloom.David@epa.gov>
Cc: Pruitt, Scott <Pruitt.Scott@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Valentine, Julia <Valentine.Julia@epa.gov>; Osborne, Howard <Osborne.Howard@epa.gov>; Conklin, Jeanne <Conklin.Jeanne@epa.gov>; Trent, Bobbie <Trent.Bobbie@epa.gov>; Treimel, Ellen <Treimel.Ellen@epa.gov>; Elkins, Arthur <Elkins.Arthur@epa.gov>; Sheehan, Charles <Sheehan.Charles@epa.gov>; Larsen, Alan <Larsen.Alan@epa.gov>; Christensen, Kevin <Christensen.Kevin@epa.gov>; Copper, Carolyn <Copper.Carolyn@epa.gov>; Sullivan, Patrick F. <Sullivan.Patrick@epa.gov>; Shields, Edward <Shields.Ed@epa.gov>; Eyermann, Richard <Eyermann.Richard@epa.gov>; Kaplan, Jennifer <Kaplan.Jennifer@epa.gov>; Lagda, Jeffrey <Lagda.Jeffrey@epa.gov>; Elbaum, Kentia <elbaum.kentia@epa.gov>; Trefry, John <trefry.john@epa.gov>; Bennett, Angela <bennett.angela@epa.gov>
Subject: Amended Notification Memo--Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel

Good Morning Mr. Bloom,

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) plans to expand the scope of preliminary research on the EPA's adherence to policies, procedures and oversight controls pertaining to the Administrator's travel, which was originally focused on his travel to Oklahoma through July 31, 2017. The scope of our review is expanded to include all travel by the Administrator through September 30, 2017. The attached memorandum provides additional information on this project.

If you have any questions, please contact my Director John Trefry at (202) 566-2474 or trefry.john@epa.gov, or my Project Manager Angela Bennett at (404) 562-9844 or bennett.angela@epa.gov.

Thanks!

Lela Wong



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

October 5, 2017

MEMORANDUM

SUBJECT: Amended Project Notification:
Audit of EPA's Adherence to Policies, Procedures and Oversight Controls
Pertaining to the Administrator's Travel
Project No. OA-FY17-0382

FROM: John Trefry, Director, Forensic Audits
Office of Audit

TO: David Bloom, Acting Chief Financial Officer

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) plans to expand the scope of preliminary research on the EPA's adherence to policies, procedures and oversight controls pertaining to the Administrator's travel, which was originally focused on his travel to Oklahoma through July 31, 2017. The scope of our review is expanded to include all travel by the Administrator through September 30, 2017. Our revised objectives will be to determine the following:

- The frequency, cost and extent of the Administrator's travel through September 30, 2017.
- Whether applicable EPA travel policies and procedures were followed for Administrator Pruitt's travel, as well as other EPA staff and security personnel traveling with or in advance of Administrator Pruitt.
- Whether EPA policies and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

To accomplish these objectives, we will review supporting documentation and conduct interviews with management and staff to determine whether the EPA followed applicable policies and practices, and complied with federal requirements. The OIG plans to work with the EPA's Cincinnati Finance Center and the Office of the Chief Financial Officer to obtain needed information. Applicable generally accepted government auditing standards will be used in conducting our work. The anticipated benefits of this project are to improve operational efficiency.

We will contact the audit coordinator to arrange a mutually agreeable time to discuss our revised objectives. We would also be particularly interested in any areas of concern that you may have. We will answer any questions you may have about the project process, reporting procedures, methods used to

gather and analyze data, and what we should expect of each other during the course of the project. Throughout the project, we will provide updates on a regular basis through a monthly meeting or via email, phone or video conference.

We respectfully note that the OIG is authorized by the Inspector General Act of 1978 to have timely access to personnel and all materials necessary to complete its objectives. We will request your resolution if an agency employee or contractor refuses to provide requested records to the OIG, or otherwise fails to cooperate with the OIG. We may report unresolved access matters to the Administrator and include the incident in the Semiannual Report to Congress.

I will supervise the project and the Project Manager will be Angela Bennett. Should you or your staff have any questions, please contact me at (202) 566-2474 or trefry.john@epa.gov, or Angela Bennett at (404) 562-9844 or bennett.angela@epa.gov.

cc: Scott Pruitt, Administrator
Ryan Jackson, Chief of Staff
Henry Darwin, Chief of Staff for Operations
Kevin Chmielewski, Deputy Chief of Staff for Operations
Kevin Minoli, Acting General Counsel
Troy Lyons, Associate Administrator for Congressional and Intergovernmental Relations
Liz Bowman, Associate Administrator for Public Affairs
Julia Valentine, Acting Director, Office of Media Relations, Office of Public Affairs
Howard Osborne, Associate Chief Financial Officer
Jeanne Conklin, Controller, Office of the Chief Financial Officer
Bobbie Trent, Agency Follow-Up Coordinator
Ellen Treimel, Audit Follow-Up Coordinator, Office of the Administrator
Arthur A. Elkins Jr., Inspector General
Charles Sheehan, Deputy Inspector General
Alan Larsen, Counsel to the Inspector General
Kevin Christensen, Assistant Inspector General for Audit
Carolyn Copper, Assistant Inspector General for Program Evaluation
Patrick Sullivan, Assistant Inspector General for Investigations
Edward Shields, Acting Deputy Assistant Inspector General for Management
Richard Eyermann, Deputy Inspector General for Audit
Jennifer Kaplan, Deputy Inspector General for Congressional and Public Affairs
Jeffrey Lagda, Congressional and Media Liaison, Office of Inspector General
Tia Elbaum, Congressional and Media Liaison, Office of Inspector General

To: Dravis, Samantha[dravis.samantha@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Bloom, David[Bloom.David@epa.gov]; Deane, Benita[Deane.Benita@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.MarkT@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; Kenny, Shannon[Kenny.Shannon@epa.gov]; Debell, Kevin[debell.kevin@epa.gov]; Threet, Derek[Threet.Derek@epa.gov]
From: OIG News
Sent: Mon 7/31/2017 1:32:24 PM
Subject: OIG Report: "EPA Needs to Institutionalize Its 'Lean' Program to Reap Cost and Time Benefits"
[_epaoig_20170731-17-P-0346_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA Needs to Institutionalize Its "Lean" Program to Reap Cost and Time Benefits* (Report No. 17-P-0346). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Spending Taxpayer Dollars

EPA Needs to Institutionalize Its “Lean” Program to Reap Cost and Time Benefits

Report No. 17-P-0346

July 31, 2017

Lean in Action at the EPA



Report Contributors:

Michael D. Davis
Heather Layne
Debra Coffel
Cara Lindsey

Abbreviations

CPI	Continuous Process Improvement
EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
LAB	Lean Action Board
NPDES	National Pollutant Discharge Elimination System
NPM	National Program Manager
OIG	Office of Inspector General
OP	Office of Policy
OSEM	Office of Strategic Environmental Management

Cover photo: EPA Region 10 staff during a Kaizen Lean event. According to the EPA’s “Lean Thinking and Methods—Kaizen” webpage, a Kaizen event involves employees of all levels working together to address a problem or improve a process. (EPA photo)

Are you aware of fraud, waste or abuse in an EPA program?

EPA Inspector General Hotline

1200 Pennsylvania Avenue, NW (2431T)
Washington, DC 20460
(888) 546-8740
(202) 566-2599 (fax)
OIG_Hotline@epa.gov

Learn more about our [OIG Hotline](#).

EPA Office of Inspector General

1200 Pennsylvania Avenue, NW (2410T)
Washington, DC 20460
(202) 566-2391
www.epa.gov/oig

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Send us your [Project Suggestions](#)



At a Glance

Why We Did This Review

We conducted this audit to determine whether the U.S. Environmental Protection Agency's (EPA's) current use of Lean methodologies operates as intended by eliminating waste and achieving savings. Lean is a set of principles and methods used to help organizations identify and eliminate waste in their processes.

In a 2014 memorandum, the EPA introduced its Lean Government Initiative "as a way to maximize the agency's ability to effectively implement its mission." The memorandum referred to "expectations for taking the EPA's Lean work to the next level" and announced the launch of an agencywide GreenSpark event designed to engage all employees in the Lean effort. To meet these objectives, the EPA dedicated significant resources—including contract and staff support—to apply Lean methodologies and educate the workforce about Lean.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

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EPA Needs to Institutionalize Its "Lean" Program to Reap Cost and Time Benefits

What We Found

We found that the EPA could not fully demonstrate that its Lean Government Initiative is operating as intended to eliminate waste and achieve savings. We found the following opportunities for the EPA to strengthen its Lean Government Initiative:

- Selection of Lean projects to avoid overlap.
- Improvements in monitoring Lean efforts to gauge progress.
- Improvements in reporting Lean projects, including cost metrics.
- Identification and tracking of Lean projects.
- Development of a cohesive strategy for leading, implementing and monitoring the Lean initiative.
- Implementation of consistent and standard Lean training.

The federal government has issued guidance on how federal agencies can optimize performance, improve efficiencies, and identify ways to eliminate wasteful practices and operate more efficiently. In addition, the EPA has issued memorandums on how to use Lean specifically within the agency. However, the EPA's internal controls for implementing Lean in accordance with this guidance and these memorandums need improvement, such as identifying and tracking Lean projects to gauge progress and costs, as well as leading and monitoring the Lean initiative agencywide. Because these controls have not been fully implemented, Lean has not been institutionalized at the EPA. These internal controls must be improved before the agency can fully maximize the application of Lean practices and ensure that it is not wasting resources by failing to create efficiencies.

Recommendations

We recommend that the Associate Administrator for Policy implement a strategy for institutionalizing the Lean Government Initiative within the agency. In addition, the Office of Policy (OP) should develop policies that specify how to plan, design, oversee and implement Lean practices. OP should also establish agencywide controls for monitoring, tracking and measuring the progress of Lean projects, as well as for vetting and collaborating on Lean projects to avoid overlap. Lastly, OP should develop standard Lean training for EPA staff. The EPA concurred with all of the recommendations and initiated corrective actions.

Noteworthy Achievements

OP has launched a new automated Lean tracking system—called LeanTrack—which OP said "will simplify information submissions, summarize work, and provide an understanding of project activity across EPA and in the states."

Why "Lean" the EPA?

Tight and dwindling resources necessitate more efficient use of the EPA's multibillion dollar budget.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

July 31, 2017

MEMORANDUM

SUBJECT: EPA Needs to Institutionalize Its “Lean” Program to Reap Cost and Time Benefits
Report No. 17-P-0346

FROM: Arthur A. Elkins Jr.

TO: Samantha Dravis, Associate Administrator
Office of Policy

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY16-0107. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

The agency provided corrective actions for addressing the recommendations with milestone dates. Therefore, a response to the final report is not required. Should you choose to provide a final response, we will post your response on the OIG’s public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The Office of Inspector General (OIG) conducted an audit of the U.S. Environmental Protection Agency's (EPA's) Lean Government Initiative. The objective of this audit was to determine whether the EPA's current use of Lean methodologies operates as intended by eliminating waste and achieving savings.

Background

The EPA began learning from and supporting Lean efforts implemented by state governments and stakeholders as early as 2005. The regions and offices exposed to these efforts gained experience with Lean, which helped to facilitate the understanding and use of Lean methodologies at the EPA.

However, there was initially no central effort to manage, capitalize on and apply the lessons learned from these early Lean projects across the agency.

In a September 2014 memorandum issued by then Administrator Gina McCarthy, the EPA formally introduced its Lean Government Initiative and launched a GreenSpark event to identify processes where Lean could be applied. In September 2015, the EPA issued a supplemental memorandum outlining ways the agency could further advance Lean.

What Is Lean?

Lean is a set of principles and methods used to identify and eliminate waste in any process. Lean helps organizations improve the speed and quality of their processes by getting rid of unnecessary activity such as document errors, extra process steps and waiting time.

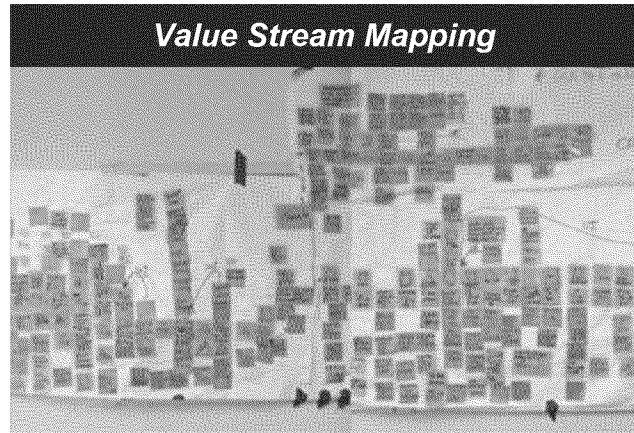
—EPA's "About Lean Government" webpage

Why the Federal Government Uses Lean

The federal government has issued guidance on how federal agencies can optimize performance, improve efficiencies, and identify ways to eliminate wasteful practices and operate more efficiently. Per the EPA's "About Lean Government" webpage, Lean methodologies are "highly adaptable" and can be used in a variety of processes. A number of agencies, including the EPA, are using continuous process improvement methods like Lean to improve the quality, transparency and speed of their processes.

Why EPA Uses Lean

According to the EPA's "About Lean Government" webpage, the EPA recognizes that inefficiencies exist across the agency and that "Lean methods are applicable to a range of EPA service and administrative processes—from rulemaking to the processing of grants and contracts." As a result, the EPA has dedicated significant resources—including contract and staff support—to apply Lean methodologies and educate the workforce about Lean.¹



Value stream mapping is often used in "leaning" (streamlining) a process. The EPA's "Lean and Six Sigma Process Improvement Methods" webpage describes value stream mapping as "developing a visual picture of the flow of processes, from start to finish, involved in delivering a desired outcome, service or product, which could include multiple processes." (EPA photo)

As of October 2016, agency staff have begun 196 projects using Lean methods to revamp processes, produce new capabilities and skill sets, and maximize the EPA's ability to serve its stakeholders. According to the EPA's Lean webpage, these Lean projects, which are also referred to as "Lean events," have eliminated processing steps, thereby reducing process time and staff time. "The results," according to the EPA's "About Lean Government" webpage, are allowing staff to now "focus on higher value activities that are more directly linked to environmental protection."

Implementation of EPA's Lean Initiative

In a memorandum issued on September 3, 2014, the EPA introduced its Lean Government Initiative² "as a way to maximize the agency's ability to effectively implement its mission." The memorandum announced the agency's "expectations for taking the EPA's Lean work to the next level" and announced the launch of "an agencywide GreenSpark ideation event to engage all of our employees in identifying processes ripe for Lean."



The EPA's Lean Government Initiative logo.
(EPA Lean Government intranet site)

Also in the memorandum, then Administrator Gina McCarthy provided specific instructions to agency management, as detailed in Table 1.

¹ The agency's *Lean Practices @ EPA* website provides more information regarding Lean and how the EPA is using Lean to improve agency performance.

² Although the agency has been using Lean methodologies and conducting Lean projects since 2009, the initiative was not officially supported until 2014 through the agency's GreenSpark challenge.

Table 1: September 2014 Lean memorandum instructions to management

Management level	Instructions provided
Assistant and Regional Administrators	<ul style="list-style-type: none"> • Encourage your staff to participate in the agencywide GreenSpark ideation event. • Sign up for your staff to share a Lean success and associated results from your organization. • Identify Lean successes that could be replicated at the national or program level.
Assistant Administrators	<ul style="list-style-type: none"> • Send information on the three Lean projects you will deliver. • Encourage your managers and staff to participate in the Lean summit. • Select at least a quarter of your managers to receive Lean training at the Lean summit.
Regional Administrators	Consider developing your own Lean summit.

Source: Lean checklist from the September 3, 2014, memorandum.

In a subsequent memorandum issued on September 18, 2015, the EPA emphasized the need to focus its “efforts to facilitate and ensure implementation of the recommendations that emerged from the Lean events, encourage replication and continue to identify and Lean the EPA processes that need it most.” Three broad courses of action were outlined in this memorandum, as shown in Table 2.

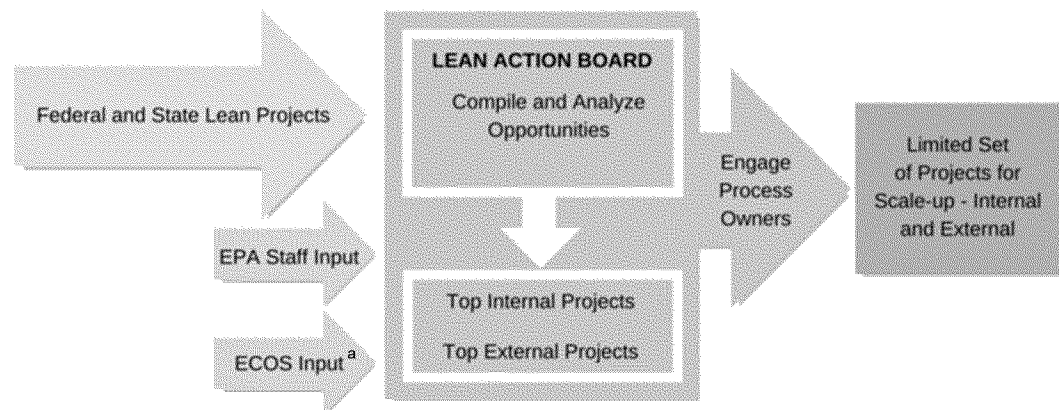
Table 2: September 2015 Lean memorandum focus areas

Focus area	Proposed tasks
Implementing ideas from your Lean events	<ul style="list-style-type: none"> • Follow up on the organization’s fiscal year (FY) 2015 Lean events by meeting with the participants from each event and the managers responsible for implementing the suggested changes. • Assess what progress has been made toward achieving the project-specific outcomes identified during the event—including what successes have already been achieved, what challenges or obstacles are being encountered, and what resources and support are needed to implement the plan. • Share with the Administrator what you learn from those discussions.
Replicating Lean successes	<p>A Lean Action Board (LAB) will be established to accomplish the following objectives:</p> <ul style="list-style-type: none"> • Identify the best replication and scale-up opportunities for the EPA, based on successful Lean implementation by the EPA and states. • Direct the agency’s Lean FYs 2016 and 2017 replication and scale-up resources toward these opportunities. • Gain and share insights into the strategies that best support a culture of Lean replication and scale up at the EPA.
New Lean projects	Identify at least one new priority Lean event for FY 2016.

Source: OIG summary of the September 18, 2015, memorandum.

As indicated in Table 2, a LAB was launched in January 2016 to help build on the successes from the Lean projects conducted by the agency since 2014. The EPA’s “Lean Action Board” website outlines how the LAB optimizes internal EPA operations and programmatic areas shared with states. The LAB also evaluates and selects a limited number of Lean projects that have produced results to be “transferred” or scaled up for use across the agency to better accomplish the EPA’s mission of protecting human health and the environment. The LAB examines both Lean projects done internally at the EPA and done in coordination with external stakeholders. The process for selecting Lean successes for transference is shown in Figure 1.

Figure 1: Process for selecting Lean successes for transference



Source: EPA’s *Lean Government* public website

^a ECOS: Environmental Council of States.

Responsible EPA Offices

The Office of Policy (OP), within the Office of the Administrator, is responsible for helping the EPA strategically reach its goals. According to the office’s Functional Statement, the following task is among OP’s major functions:

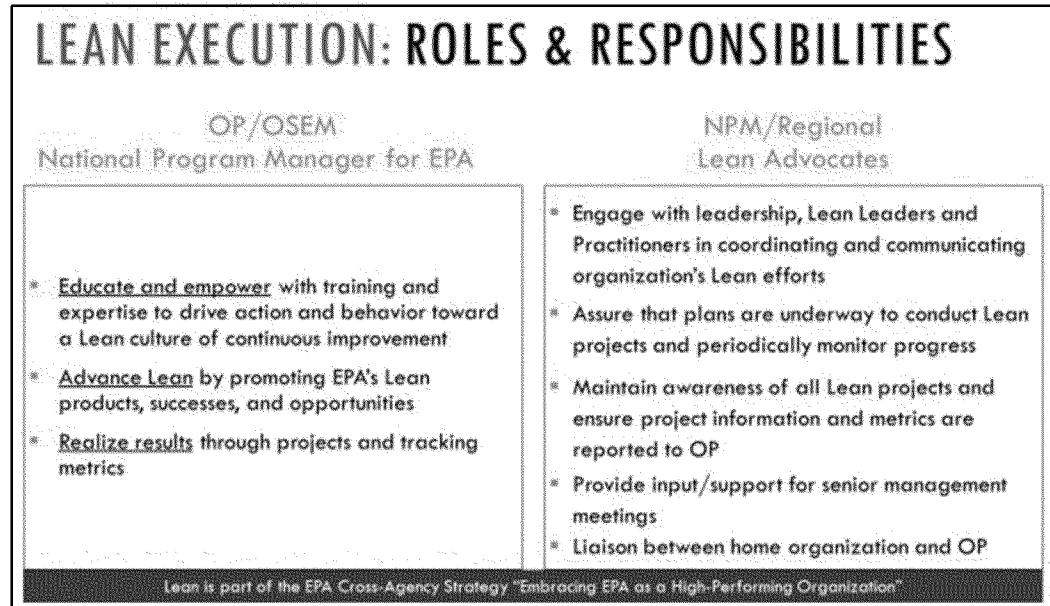
Provides strategic management practices to enhance Agency effectiveness through program analysis, program evaluation and the development and deployment of other management strategies that enhance productivity and improve the effectiveness of Agency programs and priorities.

Within OP, the Office of Strategic Environmental Management (OSEM) is the primary office responsible for executing Lean (Figure 2). The OP website summarizes OSEM’s responsibilities:

As the Agency’s National Program Manager [NPM] for Lean government, OSEM provides the Agency with Lean expert facilitators; builds the infrastructure for Lean activities across EPA (via training, coaching, guidance publications, traditional and

innovative intranet presence, and documenting results); develops and supports projects for replication and/or scale up; and explores approaches to engage EPA's management to support their goals for continuous process improvement.

Figure 2: Roles and responsibilities for executing Lean at EPA



Source: OP Associate Administrator's "Lean Government at EPA" presentation.

Scope and Methodology

We conducted this audit from February 24, 2016, to May 25, 2017, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To answer our objective, we reviewed the following relevant laws, procedures and policy orders:

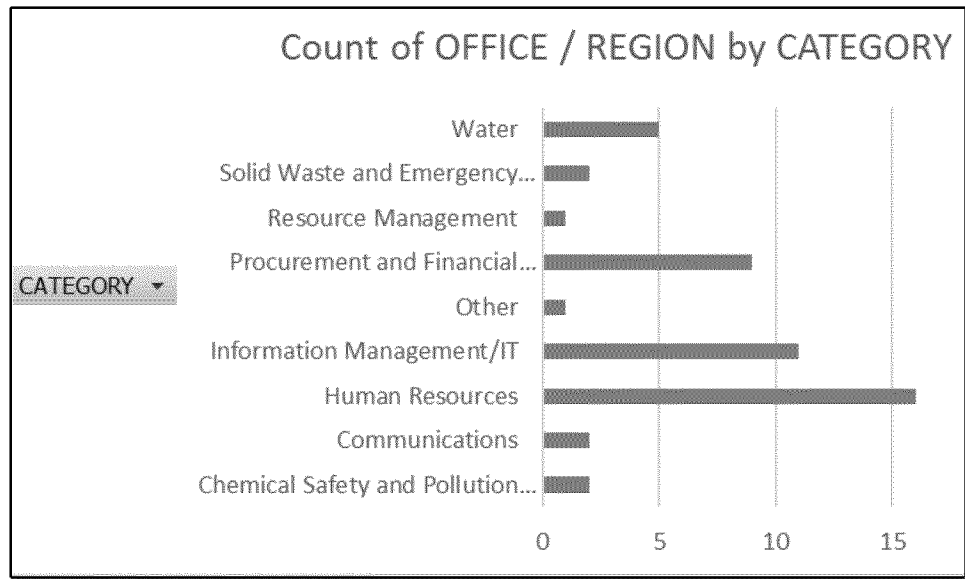
- Government Accountability Office, *Standards for Internal Control in the Federal Government*, September 2014.
- *Lean Government Metrics Guide*, July 2009.
- Government Performance and Results Act Modernization Act of 2010.
- Executive Order 13576, *Delivering an Efficient, Effective, and Accountable Government*, June 3, 2011.
- Office of Management and Budget M-11-31, *Delivering an Efficient, Effective, and Accountable Government*, August 17, 2011.

- EPA Memorandum, *Advancing Lean Work at the U.S. Environmental Protection Agency*, September 3, 2014.
- *Lean Continuous Process Improvement Training Strategy and Capacity Building Efforts at EPA*, July 1, 2015.
- EPA Memorandum, *Leaning into Change*, September 18, 2015.
- EPA Policy Statement, *Applying Lean Practices to Modernize the Business of Environmental Protection at the EPA*, June 21, 2016.
- Office of Management and Budget Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, July 15, 2016.

We reviewed the agency's current use of Lean methods to determine whether the program is improving the quality, transparency and speed of Lean projects by performing the following actions:

- Interviewing staff in OP to obtain an understanding of the EPA's Lean Government Initiative and the internal controls in place.
- Identifying and gathering general information on the universe of Lean projects as of March 2016 to obtain an understanding of the following characteristics:
 - Types of projects.
 - Categories of projects.
 - Participating offices/regions.
 - Completed projects.
 - Reported savings/efficiencies.
- Sorting the projects by category and determining which category had the highest number of projects with similarities (Table 3). We identified 16 projects related to human resources processes. We conducted a detailed review of 12 of these human resources projects to determine if there were any similarities or overlapping objectives and processes.
- Determining project effectiveness by judgmentally selecting for further review six additional Lean projects in various stages of implementation.
- Interviewing project teams involved to determine the status of implementation.

Table 3: Project count by category



Source: OIG analysis of OP data.

Prior Report

In EPA OIG Report No. 11-P-0315, *Agency-Wide Application of Region 7 NPDES Program Process Improvements Could Increase EPA Efficiency*, issued July 6, 2011, the OIG published the following findings:

- (1) Although Region 7 National Pollutant Discharge Elimination System (NPDES) program Kaizen³ event participants continued to follow up on the commitments and action items identified, no single authority was responsible for tracking the process improvement outcomes.
- (2) The EPA did not have a process to develop and track quantifiable results and outcomes from the Kaizen event.
- (3) The EPA encountered barriers involving scope, performance measures, implementation and accountability when planning the Kaizen event.

The report included three recommendations to identify process improvements from the Region 7 NPDES Kaizen event that can be transferred agencywide and three recommendations to improve the nationwide management of the EPA's Lean Government Initiative. Corrective actions have been completed on all recommendations.

³ Per the EPA's "Lean and Six Sigma Process Improvement Methods" webpage, "Kaizen activity often involves rapid improvement events (sometimes called a kaizen blitz), which bring together a cross-functional team for two to five days to study a process and begin the implementation of process changes."

Noteworthy Achievements

The EPA has produced tangible improvements in how it operationalizes and tracks Lean methodologies and projects since the publication of OIG Report No. 11-P-0315, *Agency-Wide Application of Region 7 NPDES Program Process Improvements Could Increase EPA Efficiency*. To facilitate a culture of Lean thinking throughout the EPA, OP has continued to build and organize a team of Lean stakeholders that draws from across the agency's professional ranks:

- Lean Advocate's group, which is a nationwide team of EPA staff who assist their organizations with the deployment of Lean and who serve as the points of contact for the NPM of the EPA's Lean Government Initiative.
- Lean Community of Practice, which is a staff-level network that includes Lean leaders and other practitioners of Lean at the EPA.
- LAB, which comprises senior executive service members who oversee and guide project selection and transference opportunities.
- Project support teams, which facilitate and coach Lean events, when necessary.

OP staff have also sought to expand institutional knowledge and buy-in of Lean by increasing staff access to Lean metrics. OP now posts project data on the agency's Lean intranet site and has launched an automated project data reporting system, called LeanTrack. This new system, which went live in March 2017, aids in project data reporting by standardizing the data collection process. LeanTrack also allows Lean project teams to view the data for any project in the database, which may help them to understand the possible cost and time benefits of each project. According to OP, this system:

... will simplify information submissions, summarize work, and provide an understanding of project activity across EPA and in the states, thereby greatly enhancing transference opportunities.



Former EPA Administrator Gina McCarthy is photographed with the EPA's Lean Advocates during a Lean Advocate's Symposium held in August 2016. (EPA photo)

Chapter 2

Improvements Needed to EPA's Lean Government Initiative

While the EPA has made positive strides with its Lean program, we found that the agency could not fully demonstrate that its Lean Government Initiative is operating as intended to eliminate waste and achieve savings. We found the following opportunities for the EPA to strengthen its Lean Government Initiative:

- Selection of Lean projects to avoid overlap.
- Improvements in monitoring Lean efforts to gauge progress.
- Improvements in reporting Lean projects, including cost metrics.
- Identification and tracking of Lean projects.
- Development of a cohesive strategy for leading, implementing and monitoring the Lean initiative.
- Implementation of consistent and standard Lean training.

To comply with federal guidance to eliminate wasteful practices and operate more efficiently, former EPA Administrator Gina McCarthy advocated instituting Lean within the EPA. However, we found that internal controls for implementing Lean need improvement, such as identifying and tracking Lean projects to gauge progress and costs, as well as leading and monitoring the Lean initiative agencywide.

Because these controls are not fully implemented, Lean is not institutionalized at the EPA, which means the agency is not maximizing the application of Lean practices and may be wasting resources by failing to create efficiencies. The importance of the EPA's mission to protect human health and the environment—particularly when faced with tight resources and dwindling budgets—necessitates more efficient use of resources. The Lean Government Initiative remains a critical step for the EPA to operate more efficiently.

Federal Initiatives to Cut Waste

With the issuance of Executive Order 13576, *Delivering an Efficient, Effective, and Accountable Government*, President Obama initiated a campaign to “cut waste, streamline Government operations, and reinforce the performance and management reform gains ... achieved.” As a part of this campaign, the President charged the government's Chief Financial Officers with achieving cost savings.

The Government Performance and Results Act Modernization Act of 2010 focuses on performance and improving efficiencies in federal agencies, while the Office of Management and Budget's M-11-31, *Delivering an Efficient, Effective,*

and *Accountable Government*, provides additional guidance on the act and assists agencies in refining performance management guidance.

Direction for EPA's Lean Initiative

EPA Lean Memorandums

The September 2014 memorandum, *Advancing Lean Work at the U.S. Environmental Protection Agency*, announced that the agency would use Lean methodologies to effectively implement its mission and asked OP, which

serves as the NPM for Lean, “to ensure ready access to the suite of training, coaching, facilitation and other needed expertise.”



Watch a video featuring former Administrator Gina McCarthy, Regions 3, 7, and 10, and industry partners who have implemented lean process improvement events

(EPA Lean Government intranet site video)

The September 2015 memorandum, *Leaning into Change*, proposed a course of action and instructions for advancing Lean in the future. The memorandum instructed staff to take “efforts to facilitate and ensure implementation of the recommendations that emerged from the Lean events, encourage replication, and continue to identify and lean the EPA processes that need it most.” This memorandum also directed OP to assess the successes and challenges of 38 priority Lean projects and to develop an action plan that further supports “implementing the great ideas and work plans from

FY 2015 events.” The memorandum was addressed to the General Counsel, Assistant Administrators, the Inspector General, the Chief Financial Officer, the Chief of Staff, Associate Administrators and Regional Administrators, with instructions for implementing project recommendations, replicating project successes, and identifying projects for FY 2016.

EPA Lean Policy Statement and Guidance

On June 21, 2016, the EPA issued a policy statement titled *Applying Lean Practices to Modernize the Business of Environmental Protection at the EPA*, which was designed to “maximize the application of Lean practices and [business process improvement] approaches, supporting the EPA’s streamlining, reform, and integration efforts across the agency.” In this policy statement, the LAB is charged with providing “oversight and guidance, utilizing evidence from Lean practices to monitor the success of this policy at the EPA.”

Published in July 2009, the EPA’s *Lean Government Metrics Guide* is a resource to help staff “understand and select metrics to support their implementation of Lean.” Table 2 of the guide specifically outlines cost as a process metric, including the following dollar savings from Lean projects:

- Dollar value of full-time equivalent savings, such as from staff attrition and eliminated need-to-hire positions.
- Reductions in contractor costs (after subtracting Lean facilitator costs).
- Other office cost savings, such as energy/utility costs and the consolidation of office space.

Overlap in Agency Lean Projects

There is some overlap in the selection of the EPA's Lean projects nationwide. In our review of 12 human resources projects, we noted the following overlapping objectives and processes:

- Three involved provisioning (streamlining the new employee equipment and information technology process).
- Three involved in-processing (streamlining the new employee and/or participant process).
- Two involved exit processing (streamlining the employee exit process).

Table 4 illustrates the eight projects with overlapping objectives and processes. Furthermore, we noted coordination or sharing of information between offices in only three of those eight projects, as indicated in the "Coordination with other offices?" column in Table 4.

As shown in Table 4, we noted the following specific similarities in these eight projects:

- Rows 1–3: Region 10, the Office of Environmental Information, and the Office of International and Tribal Affairs each completed a provisioning project. These projects entailed involvement by the human resources and information technology departments, where (1) users were given access or granted authorization to systems, applications and databases and (2) users were provided the hardware resources necessary for completing their duties, such as computers, phones and equipment.
- Rows 4–6: The Office of the Administrator, Office of Research and Development, and Office of Administration and Resources Management each conducted onboarding projects that streamlined the various workflow processes for in-processing a new employee and/or program participant.
- Rows 7–8: The Office of Administration and Resources Management and Region 5 both completed out-processing projects that streamlined and simplified the employee exit process.

Table 4: Lean project overlap

	Office/ region	Project focus	Project goal	Overlap	Coordination with other offices?
Provisioning projects:					
1	Region 10	New personnel	Reduce the time required to complete the User Management Request process for new employees and other new system users.	<ul style="list-style-type: none"> Provisioning Workstation setup (equipment) 	No
2	OEI	Agency employee onboarding/off-boarding process	Improve various facets of the employee onboarding process.	<ul style="list-style-type: none"> Provisioning (information, equipment, training, networking) 	Yes (with OARM)
3	OITA	Office employee onboarding	Streamline various facets of the employee onboarding process.	<ul style="list-style-type: none"> Provisioning (information, equipment, training, networking) 	Yes
In-processing projects:					
4	OA	Update personnel processes	Streamline the establishment of a new employee by improving various facets of the employee onboarding process.	<ul style="list-style-type: none"> In-processing Streamline establishment of new employee process 	No
5	ORD	ORISE recruitment process ^a	Streamline ORD's ORISE recruitment process by improving various facets of the onboarding program.	<ul style="list-style-type: none"> In-processing Streamline establishment of new participant process 	No
6	OARM	Agency onboarding/off-boarding process	Streamline the establishment of a new employee by improving various facets of the onboarding process.	<ul style="list-style-type: none"> In-processing Streamline establishment of new employee process 	Yes (with OEI)
Exit processing projects:					
7	Region 5	Employee exit process	Streamline, simplify and automate various facets of the employee exit process.	<ul style="list-style-type: none"> Out-processing Streamline employee exit process 	No
8	OARM	EPA RTP separation checkout process	Streamline the EPA RTP employee checkout process.	<ul style="list-style-type: none"> Out-processing Streamline employee exit process 	No

Source: OIG analysis of OP data.

^a OP's acting Associate Administrator stated, "ORISE onboarding process is demonstrably different from other human resource processes at EPA. For example, ORISE uses a third party, not USAJobs, to advertise for recruits, and ORISE program participants are not formal EPA employees. As such, streamlining the ORISE onboarding process required specific solutions."

OA: Office of the Administrator
OARM: Office of Administration and Resources Management
OEI: Office of Environmental Information
OITA: Office of International and Tribal Affairs
ORD: Office of Research and Development
ORISE: Oak Ridge Institute for Science and Education
RTP: Research Triangle Park

Lean projects are determined and implemented primarily at the local level. Each office or region identifies and implements Lean projects based on what the office or region determines to be relevant. OP does not screen or vet projects to limit

overlap, nor does it coordinate efforts between offices with similar projects to maximize the application of Lean practices and business process improvement approaches. OSEM's Associate Director states that this decentralized approach is a way to encourage participation in the Lean Government Initiative:

[E]stablishing a 'governing entity' to vet Lean projects could be a disincentive to programs and offices considering a Lean project. Such an entity would be almost certain to establish additional bureaucracy and process related to the review and selection of Lean projects, which would have a chilling effect on proposals. Duplication of some aspects of a few Lean projects is a small price to pay for allowing programs and offices to select and implement their own projects, which is a highly effective way of gaining support for Lean.

As noted in the EPA's September 2014 Lean memorandum, however, each Lean project is a significant investment. In the September 2015 Lean memorandum, then EPA Administrator Gina McCarthy emphasized replicating Lean successes and established a LAB to perform the following functions:

- Identify the best replication and scale up opportunities for the EPA, based on successful Lean implementation by the EPA and states.
- Direct the agency's Lean FY 2016 and FY 2017 replication and scale up resources.
- Gain and share insights into the strategies that best support a culture of Lean replication and scale up at the EPA.

Furthermore, in its June 2016 policy statement on applying Lean practices, the EPA charged the LAB with providing oversight, issuing guidance, and utilizing evidence from Lean practices to monitor the success of the EPA's Lean policy.

Lean Not Institutionalized at EPA

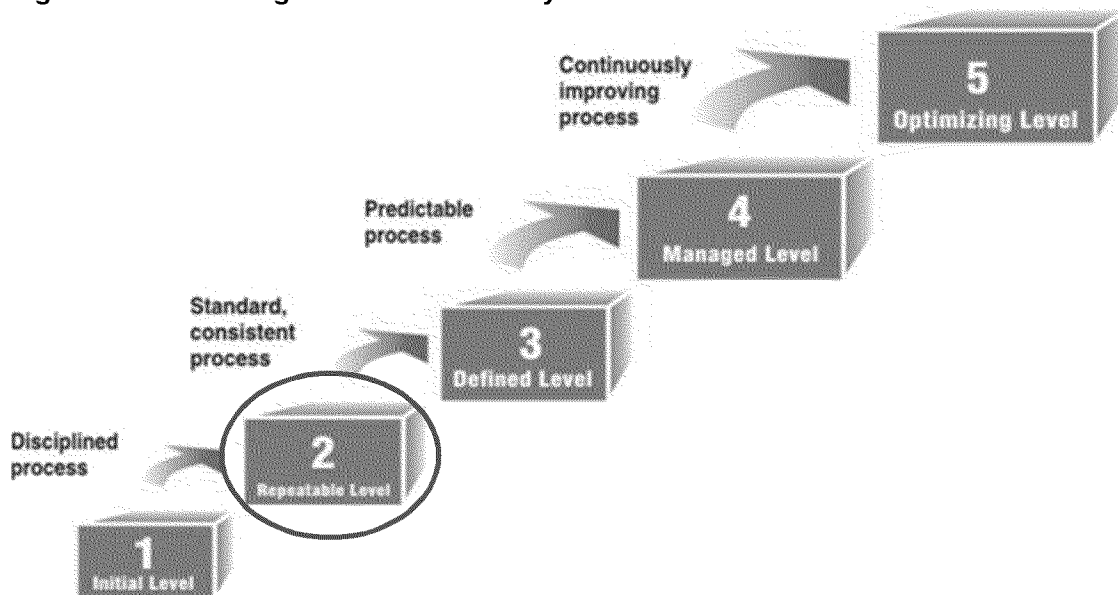
When the EPA's Lean Government Initiative was introduced in 2014, there was no policy or overarching plan for instituting or implementing the initiative. There were no mandates or integrated efforts to identify Lean efficiencies in the agency's strategic planning, programming, budget or execution processes. As a result, Lean was not institutionalized at the EPA.

OSEM's Associate Director informed the OIG that the only Lean policies initially available were the 2014 and 2015 memorandums. In June 2016, after the start of our audit, the agency issued a policy statement on applying Lean practices agencywide. This policy was in response to OIG Report No. 11-P-0315, *Agency-Wide Application of Region 7 NPDES Program Process Improvements Could Increase EPA Efficiency*, issued July 6, 2011, in which we recommended

that “OP develop a national policy on how to plan, design, and implement business process improvement events.” However, we found that the June 2016 policy statement does not address how to plan, design and implement Lean practices, nor does the policy provide sufficient direction for implementing and managing a large-scale organizational transformation like the Lean Government Initiative. Thus, the policy did not aid in institutionalizing Lean at the EPA.

The OP Lean team reported continued difficulties in establishing a Lean culture and instilling Lean thinking as a “way of doing business.” A Lean Rapid Assessment, which was conducted in October 2015 by OP at the request of former Administrator Gina McCarthy, supports the team’s perceptions. As shown in Figure 3, OP determined that the agency was rated at a Level 2 out of five possible levels in the Lean Maturity Model.

Figure 3: EPA’s rating on the Lean Maturity Model



Source: OP Lean Rapid Assessment.

Implementing a large-scale organizational transformation and establishing a culture that embraces Lean as a way of doing business requires the use of change management practices. These practices should actively involve and engage leaders, identify a dedicated implementation team (like OP) to manage the transformation, and develop a strategy for measuring progress and assessing and mitigating risk. This practice will help to more strategically implement the Lean initiative, as well as sustain it long term.

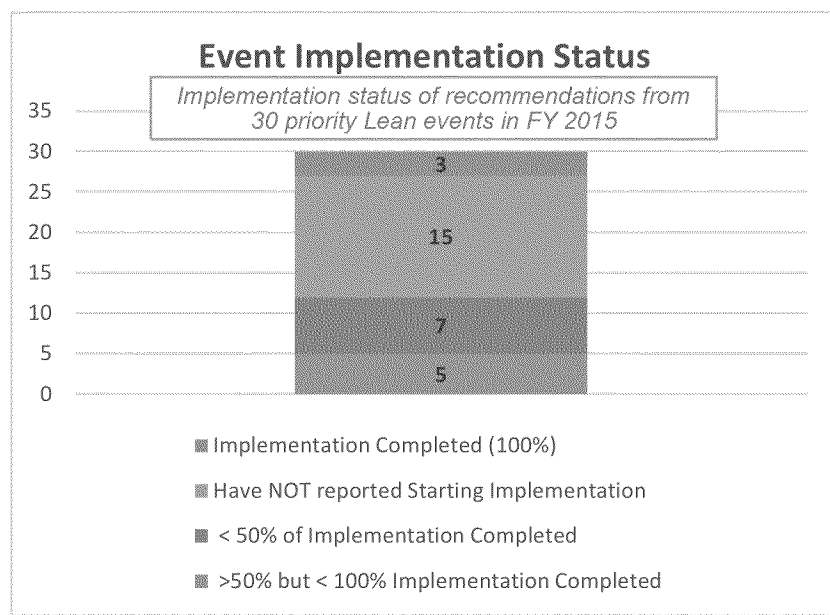
In its Lean Rapid Assessment, OP made the following statement:

These preliminary findings will continue to be refined, and once further informed by the [Assistant Administrator/Regional Administrator] dialogues and reports, will contribute to an action

plan designed to achieve full implementation of these plans ... only through full implementation will EPA advance on the Lean maturity model in order to sustain Lean as a cultural practice.

However, according to OP staff, the agency had not taken steps to institutionalize the Lean effort, which would help to translate the EPA's policies and strategic plans into actionable guidelines that are applicable to the daily activities of its employees. For example, in FY 2015, the agency identified 39 Lean events as being priority projects. The responsible offices completed 30 of these 39 events, but OP's Lean Rapid Assessment revealed that only half of the offices had either started or completed implementing the recommended improvements resulting from these Lean events (Figure 4). In addition, a formalized Lean implementation action plan was not published, as required by the EPA's September 2015 Lean memorandum. However, although the agency has not issued a formalized Lean Implementation Action Plan, the OIG noted that OP has realized and delivered some improvements in certain areas, which would constitute the basis of an action plan for implementing Lean.

Figure 4: FY 2015 implementation status of Lean project results



Source: OP Lean Rapid Assessment, with data current as of October 27, 2015.

Insufficient Monitoring, Tracking and Reporting of Lean Projects

Insufficient Project Monitoring and Tracking

OP, which serves as the NPM for Lean, does not consistently monitor the progress of the agency's Lean efforts, including timeframes for completion or status of implementation, nor does it accurately track and report project results.

Regions and offices report the status of their projects to OP, which then reports agencywide on the status of the EPA's Lean initiative.

The OIG performed a detailed review of six Lean projects in various stages of implementation, noting when the Lean event was held, when the implementation plan was finalized and completed, and when expected project results were submitted. We also conducted interviews with project team members. As shown in Table 5, we were unable to reconcile the data provided to us by OP with the project team's data.

Table 5: Comparison of OP and project team data

Project name	Primary process owner	Event held		Implementation plan				Expected project results submitted	
				Finalized		Activities completed			
		OP data	Project team data	OP data	Project team data	OP data	Project team data	OP data	Project team data
Agency Reorganization Process	OARM	Sep 2013	No event held	Sep 2014	Not reported	(a)	Sep 2014	Jan 2015	Not reported
OAR Hardship Application Process	OAR	Jan 2015	Feb 2015	Jun 2015	(a)	(a)	Jun 2015	Aug 2015	Aug 2015
OAR Congressional Correspondence Response Process Improvement	OAR	Jan 2014	(a)	Jul 2014	(a)	(a)	Third quarter of FY 2016	Jul 2014	(a)
OCFO Reimbursable IA Payment Process	OCFO	(a)	Mar 2014	Apr 2014	(a)	(a)	FY 2015	Aug 2014	End of FY 2015
Region 6 Inspection Report Normalization Process	Region 6	Oct 2013	No event held	Nov 2013	No event held	No Event Held	No event held	Jan 2016	Not reported
Regions 3 and 7 RCRA Corrective Action CMS Process	Regions 3 and 7	May 2014	(a)	May 2014	(a)	(a)	Jun 2015	Oct 2014	(a)

Source: OIG analysis of project data.

^a Information could not be reconciled with source document(s).

CMS: Corrective Measures Study

IA: Interagency Agreement

OAR: Office of Air and Radiation

OARM: Office of Administration and Resources Management

OCFO: Office of the Chief Financial Officer

RCRA: Resource Conservation and Recovery Act

OP staff explained that the inconsistencies in monitoring projects were due to a combination of factors, such as different people entering information at different times, the technology used to enter data being limited and not user friendly, and/or information not being updated as it changed. In addition, project teams expressed frustration in submitting results to the national Lean metrics system.

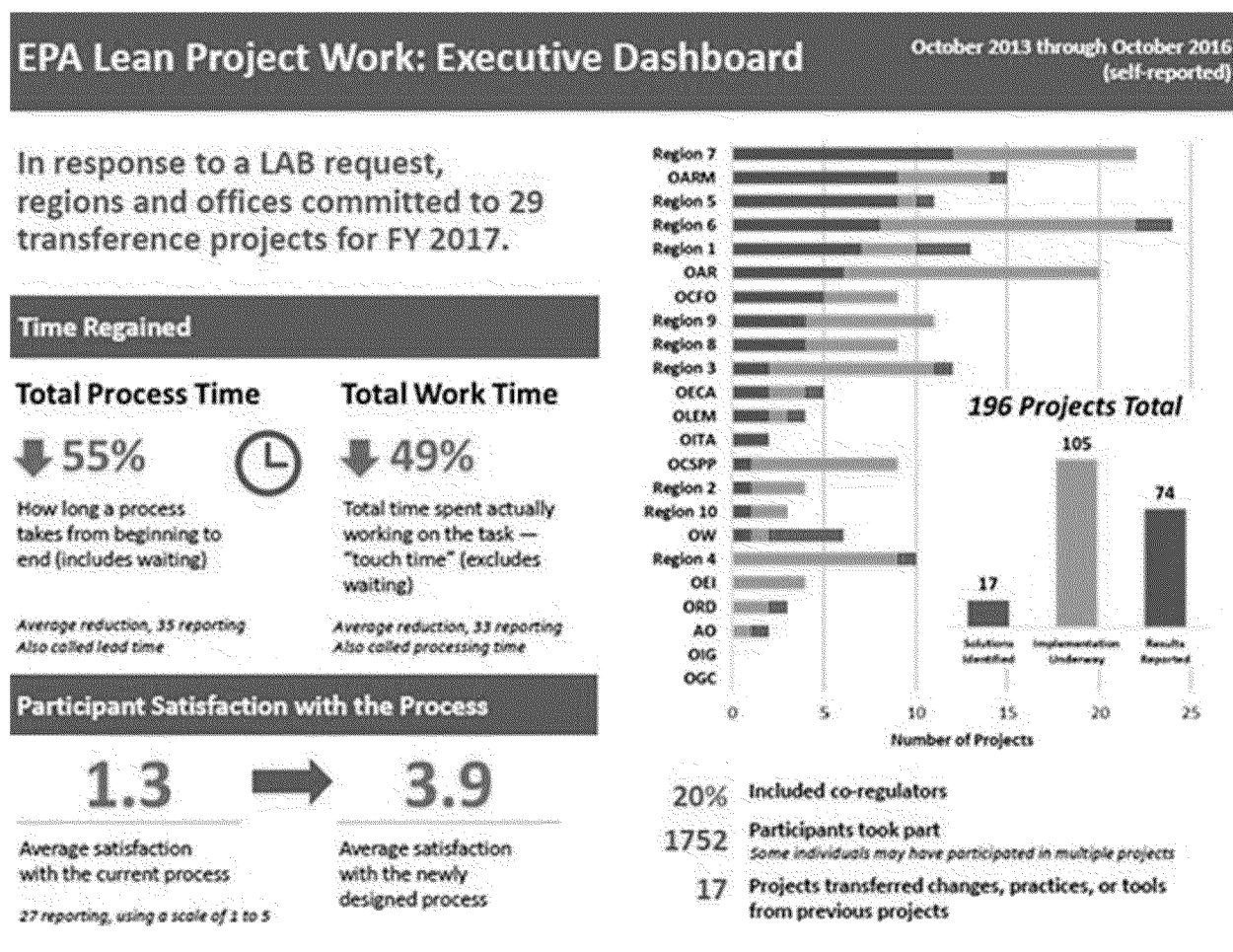
Compounding these challenges were OP's limited oversight and restricted authority for leading the Lean program. OP staff said that they cannot require project teams to report results, nor can they require project teams to use the available guidance for determining individual project metrics. As mentioned in

the “Noteworthy Achievements” section, OP developed a new automated Lean tracking system—called LeanTrack—that should help eliminate inconsistencies and improve oversight capabilities. This new system was designed to allow any project team to view the information on any project in the database. LeanTrack was officially launched on March 1, 2017.

Insufficient Project Reporting

Project results, which are self-reported by the project team members at the end of a Lean event, are based on projected or estimated process improvements (Figure 5). Furthermore, the EPA does not report on projected savings or cost avoidances.⁴

Figure 5: Dashboard of EPA’s Lean project results (October 2013–October 2016)



Source: EPA Lean Government intranet site.

⁴ In November 2016, OP staff stated that project leads have started reporting on actual savings. The OIG has not been able to review and confirm these savings.

According to OP staff, not all regions or headquarters offices report their information or calculate metrics the same way. In addition, OP does not collect information on project efforts, project progress, or the methodologies used for estimating or calculating project outcomes. OP also does not analyze and compare projected results to actual outcomes. OP has identified a number of improvements and efficiencies resulting from select Lean projects, such as reduced timeframes or eliminated steps, but does not translate those project results into related costs. Furthermore, because OP does not consider cost to be a primary efficiency measure, it does not include financial benefits in its data reporting, even if financial benefits are reported by individual project teams. As a result, OP has not translated, identified or reported project outcomes in terms of related cost savings, cost avoidances, or funds put to better use for any of the EPA's more than 150 Lean projects (Figure 5).

OP's acting Associate Administrator provided the following statement:

While OP does not report on these results in aggregate, some projects do track these metrics and report them to OP. OP is aware of numerous projects for which this information has been calculated and reported. Moreover, as a resource document, the *Lean Government Metrics Guide* does not dictate what metrics must be used and when. The guide states that it is important to remember that the Lean ... metrics discussed in this guide should ultimately support progress toward achieving the agency's mission.

Yet, the *Lean Government Metrics Guide* clearly outlines cost as a process metric and provides instruction on how to calculate cost metrics. OSEM's Associate Director acknowledged that the EPA could more effectively report and share actual results, noting that the agency has made recent progress on reporting such results.

Limited Oversight and Restricted Authority to Implement Lean

The EPA provides limited oversight for leading, implementing and monitoring the Lean program agencywide, as well as for establishing expectations and accountability. OP staff have been assessing and addressing circumstances ad hoc and lack a cohesive Lean strategy.

Currently, the responsible office for the EPA's Lean Government Initiative is OP's OSEM, Evaluation Support Division. According to the Associate Director of OSEM, "As the NPM, OP provides infrastructure to the Lean Government Initiative by funding, directing, training and convening to share ideas."

OP staff asserted that involvement in the EPA's Lean Government Initiative is voluntary, with a decentralized process. However, the EPA's June 2016 policy statement established a LAB composed of senior executive service members who

“provide oversight and guidance, utilizing evidence from Lean practices to monitor the success of this policy at the EPA.”

Per the LAB’s charter, strategy document and website, the LAB is required to perform the following actions:

- Evaluate and select a limited number of Lean projects whose results can be transferred or scaled up to better accomplish EPA’s mission of protecting human health and the environment.
- Direct the agency’s Lean resources toward best opportunities.
- Gain and share insights into the strategies that best support a culture of Lean thinking and continuous process improvement.
- Advance the practice of Lean to ensure continuous improvement at the EPA and with state partners.
- Report quarterly to the Administrator and Deputy Administrator.

The LAB comprises three to six Senior Executive Service-level officials, two state representatives, and a facilitator, all of whom also have the day-to-day task of managing their respective programs or regional offices. LAB members have begun to examine both Lean projects done internally at the EPA and those done in coordination with external stakeholders. Members meet occasionally via teleconference to evaluate and select a limited number of Lean projects, with the goal of identifying results that can be transferred or scaled up for use by other offices. However, OP and the LAB have not coordinated to determine how they will achieve the charges dictated within the June 2016 policy statement, *Applying Lean Practices to Modernize the Business of Environmental Protection at the EPA*. While the newly formed LAB is still working to realize its objectives, the LAB alone cannot provide adequate oversight of this large-scale initiative. A dedicated, fully authorized project management team (such as OP) is still needed to augment the LAB’s oversight functions.

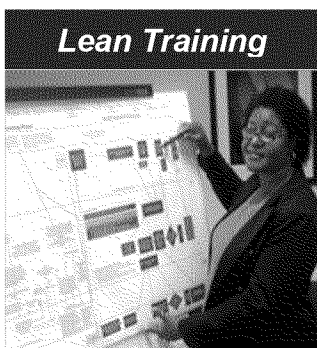
Since Lean is not institutionalized at the agency, there is no strategic plan or strategic implementation of the program. Further, with restricted authority for leading the Lean initiative, OP staff cannot effectively monitor the progress of projects, require project teams to report consistently, implement identified solutions, establish consistent training, or hold accountable those project owners who impede implementation or do not act in accordance with policy and guidance.

Lean Training Not Standardized

The EPA does not provide nor have a requirement for standardized Lean training. Staff reported that OSEM provides support to regions/offices in obtaining training as requested rather than developing and disseminating a common curriculum throughout the agency. OSEM staff added that, as a result, regions and offices initiate their own efforts to obtain the training they deem appropriate, which can vary in quality, concepts, terms and activities.

OSEM's Associate Director provided documentation from representatives of numerous EPA offices and programs citing, among other issues, that the agency has a need for Lean training. More specifically, OP's Lean Rapid Assessment noted the following training needs:

- Core team members need more technical coaching and mentoring for completing their projects using Lean tools.
- Key team members have not had training on tools that facilitate the implementation phase to reach sustained results; there is a need for expert support to fill this gap.
- Not enough core staff are trained regarding what Lean tools can help with implementation; there is a lack of awareness/understanding in this area.



Lean training is currently not standardized across the agency. (EPA photo)

The EPA notes the need for standardized training in its July 2015 guide, *Lean Continuous Process Improvement Training Strategy and Capacity Building Efforts at EPA*, which communicates the agency's Lean training strategy and offers guidance for attaining the Continuous Process Improvement (CPI) core competencies. In the guide, the agency's Lean Community of Practice noted that "the variation in training has raised some ... issues related to a standardized curriculum and the adoption of a CPI certification program," such as a "belt" system for advanced practitioners. However, although OP has made available a set of core competencies and basic body of knowledge, there is still variation in the training agencywide.

In February 2017, OP's acting Associate Administrator did state that "OP is now developing a more specific training curriculum for event participants, managers, project implementation teams, and project facilitators." The OIG was not able to review and confirm this claim.

Opportunities Exist to Strengthen EPA's Streamlining Efforts

In its September 2014 Lean memorandum, the EPA emphasized that each Lean project is a significant investment. If the agency does not closely oversee and

monitor its progress on waste reduction, performance and management improvements, and if it does not maximize the application of Lean practices and business process improvement approaches, it may be wasting resources by failing to create efficiencies. Specifically, the agency will not be fulfilling the expectations of the 2014 and 2015 Administrator's memorandums or of the 2016 policy statement. Additionally, without operating efficiently and effectively, the EPA will not be serving as a proper steward of federal resources or operating as a high-performing organization.

Tracking and reporting actual project results, along with calculating any estimated benefits and savings using only quality data and methodologies, will enable the EPA to better represent, substantiate and understand the accuracy and reliability of any savings or efficiencies resulting from its Lean Government Initiative. Seeing project outcomes in terms of financial benefits will help to build momentum and promote the Lean Government Initiative, generate employee engagement, increase management buy-in, and make a case for transformation and change.

For the Lean Government Initiative to be fully successful and to enable the tracking and reporting of efficiencies, the agency must incorporate change management strategies that encourage the use of Lean practices. The EPA must also standardize and coordinate Lean-specific training. OP staff should be given the necessary authority and resources to set priorities, make decisions, and act to implement Lean goals and expectations. The OIG agrees with OP's assessment that, with a full implementation plan, the EPA can advance on the Lean Maturity Model and sustain Lean as a cultural practice.

Recent Agency Actions Prompted by OIG Work

OP staff stated that they published an update to the *Lean Government Implementation Guide* in February 2017 that contains a standard set of tools and templates to help Lean practitioners and facilitators plan for, conduct and implement the results of Lean projects. However, the OIG learned that, at the time our report was finalized, OP's *Lean Government Implementation Guide* had not been published but was still in draft form and under review by the agency.

In addition, OP staff stated that, in May 2017, they began conducting a new comprehensive training program for Lean event participants, managers, project implementation teams, project facilitators, general staff and managers. Specific training courses include a Basic Lean Facilitation ("Greenbelt") certification course and an Advanced Lean Facilitation course.

Recommendations

We recommend that the Associate Administrator for Policy:

1. Implement a strategy for institutionalizing the Lean Government Initiative within the agency by integrating the application of Lean practices and business process improvement approaches.
2. Develop policies that specify how to plan, design, oversee and implement Lean practices within the agency.
3. Develop a process for monitoring, tracking and measuring quantifiable results, including cost savings, for Lean projects.
4. Develop a process for a) vetting projects that have the potential for standardized implementation across the agency and b) collaborating on projects to maximize the application of Lean, as well as sharing experiences and lessons learned agencywide.
5. Develop and implement a consistent and standardized Lean training effort for the EPA's staff.

Agency Response and OIG Evaluation

The EPA concurred with all recommendations. The agency provided an estimated completion date of June 2018 for corrective actions related to Recommendations 1, 2, 4 and 5. The agency provided an estimated completion date of January 2018 for actions related to Recommendation 3.

For Recommendation 1, OP agreed to work with its administrative offices, national program offices and regional offices to develop a draft Lean strategy by June 2018.

For Recommendation 2, OP agreed to develop policies that specify how to plan, design, oversee and implement Lean practices within the agency by June 2018.

For Recommendation 3, OP launched a new tracking system in March 2017 that automated the process for monitoring, tracking and measuring quantifiable results for Lean projects. The agency also stated that it plans to complete a pilot process by January 2018 for measuring cost savings realized from Lean projects.

Regarding Recommendation 4, the agency concurred with the recommendations that it collaborate on Lean projects to avoid overlap and that it develop processes to share experiences and lessons learned nationwide. However, the agency asked that the OIG reconsider its recommendation for vetting projects. The OIG agreed and revised the recommendation based on the agency's response to the draft report and discussions with the agency. The agency concurred with the revised

recommendation. To meet the intent of the revised recommendation, OP agreed to complete the following actions by June 2018:

1. Use LeanTrack to identify similar projects.
2. Facilitate coordination of teams with similar projects.
3. Use the LAB to identify and prioritize Lean projects with agencywide implications for transference with the goal of standardization across the agency.

For Recommendation 5, OP implemented a new comprehensive training program in May 2017 for Lean event participants, managers, project implementation teams, project facilitators, general staff and managers. In addition, OP stated that it plans to establish a standard curriculum through which all agency employees can gain Lean knowledge and skills by June 2018. OP also described its plans to establish required annual training for all agency employees regarding Lean basics, as well as more specific and required annual training for agency managers.

These recommendations will remain open pending completion of the proposed corrective actions.

The complete agency response to the draft report is in Appendix A.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	22	Implement a strategy for institutionalizing the Lean Government Initiative within the agency by integrating the application of Lean practices and business process improvement approaches.	R	Associate Administrator for Policy	6/30/18	
2	22	Develop policies that specify how to plan, design, oversee and implement Lean practices within the agency.	R	Associate Administrator for Policy	6/30/18	
3	22	Develop a process for monitoring, tracking and measuring quantifiable results, including cost savings, for Lean projects.	R	Associate Administrator for Policy	1/31/18	
4	22	Develop a process for a) vetting projects that have the potential for standardized implementation across the agency and b) collaborating on projects to maximize the application of Lean, as well as sharing experiences and lessons learned agencywide.	R	Associate Administrator for Policy	6/30/18	
5	22	Develop and implement a consistent and standardized Lean training effort for the EPA's staff.	R	Associate Administrator for Policy	6/30/18	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
POLICY

MEMORANDUM

SUBJECT: Response to Office of Inspector General's Final Audit Report No. OA-FY16-0107, *EPA's Lean Government Initiative: Opportunities Exist to Strengthen the Agency's Streamlining Efforts*, dated May 25, 2017

FROM: *Kevin W. Dravis for*
Samantha Dravis, Senior Counsel and Associate Administrator
Office of Policy *(Signature)* 6/22/17

TO: Kevin Christensen, Assistant Inspector General
Office of Inspector General / Office of Audit

Thank you for the opportunity to respond to the proposed recommendations in the subject audit report. EPA's overall response to each of the Office of Inspector General's (OIG) proposed recommendations, including comments on the findings and, where appropriate, planned corrective actions and estimated completion dates are provided below.

1) Proposed Recommendation: The Associate Administrator for Policy should implement a strategy for institutionalizing the Lean Government Initiative within the agency by integrating the application of Lean practices and business process improvement approaches.

EPA Response: EPA concurs with this recommendation. The Office of Policy (OP) plans to work with its administrative offices, national program offices, and regional offices to develop a draft strategy by June 2018.

2) Proposed Recommendation: The Associate Administrator for Policy should develop policies that specify how to plan, design, oversee and implement Lean practices within the agency.

EPA Response: EPA concurs with this recommendation. While the agency does not yet have policies that specifically address how to plan, design, oversee and implement Lean practices, the Agency has developed several resources to facilitate, guide and promote the integration of Lean practices across the agency. In February 2017, OP published an update to the Lean Government Implementation Guide that contains a standard set of tools and templates to help Lean

practitioners and facilitators plan for, conduct and implement results of Lean projects. In addition, EPA's Lean Intranet site includes several tools to help staff plan, design, oversee and implement Lean projects within the agency.

EPA will develop policies that capitalize on these existing tools to expand the knowledge and understanding of Lean across the agency. OP will develop these draft policies by June 2018.

3) Proposed Recommendation: The Associate Administrator for Policy should develop a process for monitoring, tracking and measuring quantifiable results, including cost savings, for Lean projects.

EPA Response: EPA concurs with this recommendation. OP has developed a process for monitoring, tracking and measuring quantifiable results for Lean projects. This process is available on the agency's Lean Intranet site and outlined in the EPA Way Kit for Lean Projects. The Metrics Checklist guides Lean teams through a detailed process to select metrics to support project implementation and track quantifiable results following project completion. In addition to this information being available on the Intranet, this information is routinely discussed with Lean Teams, during Community of Practice teleconferences, and periodically shared with members of the Lean community through email updates.

EPA recently launched a new tracking system called LeanTrack to automate this process. LeanTrack includes information on over 200 EPA improvement projects and over 700 state projects. EPA staff can use LeanTrack to search for information on a wide range of Lean projects, enter data on new and existing projects, and generate custom reports. Following the launch of LeanTrack, OP held webinars and provided resources via the Intranet to help staff understand how to use the new system. Over 100 people participated in three webinars held by OP staff. EPA fully expects that the new system will significantly eliminate inconsistencies in reporting and improve oversight capabilities.

While financial savings has not been a primary intention of the Lean Government Initiative, EPA concurs with the recommendation that it develop a process to measure cost savings realized from Lean projects. The agency plans to complete a pilot process for doing so by January 2018. This process will be included in the policies developed under Recommendation 2.

4) Proposed Recommendation: The Associate Administrator for Policy should develop a process for vetting and collaborating on Lean projects to avoid overlap, as well as a process to share experiences and lessons learned nationwide.

EPA Response: EPA does not concur with the recommendation that it should vet Lean projects. EPA concurs with the recommendations that it collaborate on Lean projects to avoid overlap and that it develop processes to share experiences and lessons learned nationwide.

As stated in the agency's January 30, 2017 response to OIG's discussion document, EPA believes that establishing a "governing entity" to vet lean projects could be a disincentive to programs and offices considering a Lean project. Lean projects are selected and implemented at the local level based on what individual offices determine to be relevant. This approach provides

individual offices with the flexibility to choose projects based on their specific needs. EPA recognizes a difference between smaller, locally focused Lean and those that affect the entire agency. OIG might consider focusing its recommendation on vetting of those projects to those with the purpose of and potential for standardized implementation across the entire agency.

EPA continues to believe that OIG's perceived overlap and duplication of Lean projects is often a result of improving different parts of an administrative process. At the same time, EPA concurs with the finding that OP should do more to collaborate and coordinate efforts between offices with similar projects to adhere to the policy of maximizing the application of Lean practices and business process improvement approaches. As one example, for projects with agency-wide implications, the Lean Action Board should identify and prioritize Lean projects for endorsement by agency senior leadership.

OP has developed toolkits that support knowledge sharing across EPA offices, has organized a highly attended series of webinars on the transference projects, and is providing Lean facilitation expertise to ensure consistency across the projects. EPA believes that project transference is fundamental to realizing the efficiencies of EPA's Lean Initiative. LeanTrack provides EPA with a greater opportunity to identify similar projects and to facilitate the coordination of the teams conducting such projects.

The EPA has created several mechanisms in place to facilitate and promote the sharing of experiences and lessons learned through the Lean Community of Practice, the Lean Advocates and the Lean Action Board. EPA will use these networks, including our website and Agency-wide communications to enhance sharing of project examples and results.

5) Proposed Recommendation: The Associate Administrator for Policy should develop and implement a consistent and standardized Lean training effort for the EPA's staff.

EPA Response: EPA concurs with this recommendation. Since at least 2013, EPA has offered some standardized Lean training, such as Lean awareness webinars. Over 2500 managers and staff have voluntarily participated in Lean awareness training.

In addition, the agency recently developed a comprehensive training program for Lean event participants, managers, project implementation teams, project facilitators, general staff and managers. Specific training courses include a Basic Lean Facilitation ("Greenbelt") certification course and an Advanced Lean Facilitation course. Each course includes one-week of in-person training and several supporting webinars.

Employees who complete these courses will gain valuable skills for applying Lean tools and facilitation techniques to execute projects and guide others through the continuous improvement process. OP launched the new training program in May 2017 and is scheduled to hold two courses this summer and one in the fall. OP is planning to deliver additional sessions of the Greenbelt course to EPA staff in multiple regional offices before the end of the calendar year. EPA is also developing course for managers that it expects to begin offering by January 2018. The agency plans to offer each of these training courses on a regular basis.

In addition to the training developed by OP, two other EPA offices (Region 9 and OARM) are also conducting Lean training. By June 2018, OP will establish a standard curriculum through which all agency employees can gain Lean knowledge and skills. EPA will pursue the establishment of required training in Lean basics for all agency employees, as well as more specific training for agency managers, as part of the annual training requirement.

We appreciate OIG's collaboration throughout the development of this audit and look forward to working with you to improve EPA's Lean Government Initiative.

Distribution

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Associate Administrator for Congressional and Intergovernmental Relations
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Associate Administrator for Policy
Principal Deputy Associate Administrator, Office of Policy
Director, Office of Strategic Environmental Management, Office of Policy
Audit Follow-Up Coordinator, Office of the Administrator

To: Bloom, David[Bloom.David@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Vizian, Donna[Vizian.Donna@epa.gov]; Fine, Steven[fine.steven@epa.gov]; Breen, Barry[Breen.Barry@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.Markt@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Osborne, Howard[Osborne.Howard@epa.gov]; Conklin, Jeanne[Conklin.Jeanne@epa.gov]; Jones-Peeler, Meshell[Jones-Peeler.Meshell@epa.gov]; Terris, Carol[Terris.Carol@epa.gov]; OBrien, Kathy[OBrien.Kathy@epa.gov]; Jones, Quentin[Jones.Quentin@epa.gov]; Chadwick-Gallo, Carmelita[Chadwick-Gallo.Carmelita@epa.gov]; Luebbering, Gregory[luebbering.gregory@epa.gov]; Lavergne, Dany[lavergne.dany@epa.gov]; Soward, Ruth-Alene[Soward.Ruth-Alene@epa.gov]; Showman, John[Showman.John@epa.gov]; Polk, Denise[Polk.Denise@epa.gov]; Patrick, Kimberly[Patrick.Kimberly@epa.gov]; Noga, Vaughn[Noga.Vaughn@EPA.GOV]; Hitchens, Lynnann[hitchens.lynnann@epa.gov]; Hardy, Michael[Hardy.Michael@epa.gov]; Woolford, James[Woolford.James@epa.gov]; Simon, Harvey[Simon.Harvey@epa.gov]; Epley, Brian[epley.brian@epa.gov]; McKinney, Robert[mckinney.robert@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Lemley, Lauren[Lemley.Lauren@epa.gov]; Hallum, Carrie[hallum.carrie@epa.gov]; Thornton, Kecia[Thornton.Kecia@epa.gov]; Holliday, Kysha[Holliday.Kysha@epa.gov]; Hublar, Jennifer[Hublar.Jennifer@epa.gov]; Regional AFC List[Regional_AFC_List@epa.gov]; Washington, Lorna[Washington.Lorna@epa.gov]; O'Connor, John[OConnor.John@epa.gov]; GLARB Audit[GLARB_Audit@epa.gov]
From: OIG News
Sent: Wed 11/15/2017 5:50:38 PM
Subject: OIG Report: "EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements"
[_epaoig_20171115-18-F-0039_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements* (Report No. 18-F-0039). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Operating efficiently and effectively

EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements

Report No. 18-F-0039

November 15, 2017

Abbreviations

EPA	U.S. Environmental Protection Agency
FAC-P/PM	Federal Acquisition Certification for Program and Project Managers
FFMIA	Federal Financial Management Improvement Act of 1996
FMFIA	Federal Managers' Financial Integrity Act of 1982
FY	Fiscal Year
GAO	U.S. Government Accountability Office
IT	Information Technology
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	Office of Management and Budget
SFFAS	Statement of Federal Financial Accounting Standards
U.S.C.	United States Code

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At a Glance

Why We Did This Review

We performed this audit in accordance with the Government Management Reform Act, which requires the U.S. Environmental Protection Agency's (EPA's) Office of Inspector General to audit the financial statements prepared by the agency each year. Our primary objectives were to determine whether:

- ☐ The EPA's consolidated financial statements were fairly stated in all material respects.
- ☐ The EPA's internal controls over financial reporting were in place.
- ☐ EPA management complied with applicable laws and regulations.

The requirement for audited financial statements was enacted to help bring about improvements in agencies' financial management practices, systems and control so that timely, reliable information is available for managing federal programs.

This report addresses the following:

- ☐ *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or www.epa.gov/oig.

Listing of [OIG reports](#).

EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements

EPA Receives an Unmodified Opinion

We rendered an unmodified opinion on the EPA's consolidated financial statements for fiscal years 2017 and 2016, meaning they were fairly presented and free of material misstatement.

We found the EPA's financial statements to be fairly presented and free of material misstatement.

Internal Control Material Weaknesses and Significant Deficiencies Noted

We noted the following material weaknesses:

- ☐ The EPA's accounting for software continues to be a material weakness.
- ☐ The EPA incorrectly recorded unearned revenue for Superfund special accounts and did not reconcile unearned revenue for those accounts.

We noted the following significant deficiencies:

- ☐ Additional efforts are needed to resolve the EPA's cash difference with the U.S. Treasury.
- ☐ The EPA needs to appoint a Project Manager to oversee the management of Compass Financials, which is the agency's accounting system, and to improve acquisition planning.

Compliance With Laws and Regulations

We did not note any significant noncompliance with laws and regulations.

Recommendations and Planned Agency Corrective Actions

The EPA agreed with our findings and recommendation and expects to complete the corrective action in fiscal year 2018.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

November 15, 2017

MEMORANDUM

SUBJECT: EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements
Report No. 18-F-0039

FROM: Paul C. Curtis, Director
Financial Statement Audits

A handwritten signature in black ink, appearing to read "Paul C. Curtis".

TO: David Bloom, Acting Chief Financial Officer

Attached is our report on the U.S. Environmental Protection Agency's (EPA's) fiscal years 2017 and 2016 consolidated financial statements. The project number for this audit was OA-FY17-0206. We are reporting two internal control material weaknesses and two significant deficiencies. Attachment 1 contains details on the material weaknesses and significant deficiencies. We did not note any instances of noncompliance.

This audit report represents the opinion of the Office of Inspector General, and the findings in this report do not necessarily represent the final EPA position. EPA managers, in accordance with established EPA audit resolution procedures, will make final determinations on the findings in this audit report. Accordingly, the findings described in this audit report are not binding upon the EPA in any enforcement proceeding brought by the EPA or the Department of Justice.

Action Required

The agency agreed with the recommendation in this report and, therefore, no further response is required. If you nonetheless choose to provide a response, your response will be posted on the Office of Inspector General's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

This report will be available at www.epa.gov/oig.

Attachments

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Inspector General's Report on EPA's Fiscal Years 2017 and 2016 Consolidated Financial Statements

The Administrator
U.S. Environmental Protection Agency

Report on the Financial Statements

We have audited the accompanying financial statements of the U.S. Environmental Protection Agency (EPA), which comprise the consolidated balance sheet, as of September 30, 2017, and September 30, 2016, and the related consolidated statements of net cost, net cost by major program, changes in net position, and custodial activity; the combined statement of budgetary resources for the years then ended; and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based upon our audit. We conducted our audit in accordance with generally accepted government auditing standards; the standards applicable to financial statements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. These standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatements.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

The financial statements include expenses of grantees, contractors and other federal agencies. Our audit work pertaining to these expenses included testing only within the EPA. The U.S. Treasury collects and accounts for excise taxes that are deposited into the Leaking Underground Storage Tank Trust Fund. The U.S. Treasury is also responsible for investing amounts not needed for current disbursements and transferring funds to the EPA as authorized in legislation. Since the U.S. Treasury, and not the EPA, is responsible for these activities, our audit work did not cover these activities.

The Office of Inspector General (OIG) is not independent with respect to amounts pertaining to OIG operations that are presented in the financial statements. The amounts included for the OIG are not material to the EPA's financial statements. The OIG is organizationally independent with respect to all other aspects of the agency's activities.

Opinion

In our opinion, the consolidated financial statements, including the accompanying notes, presents fairly, in all material respects, the consolidated assets, liabilities, net position, net cost, net cost by major program, changes in net position, custodial activity, and combined budgetary resources of the EPA as of and for the years ended September 30, 2017 and 2016, in conformity with accounting principles generally accepted in the United States of America.

Emphasis of Matter—Software Capitalization

As described in Note 1 to the financial statements, in fiscal year (FY) 2017, the agency changed its capitalization policy by increasing the capitalization threshold from \$250,000 to \$5 million for new purchases in FY 2017 and thereafter. Statement of Federal Financial Accounting Standards (SFFAS) No. 10, *Accounting for Internal Use Software*, allows for agencies to select their own capitalization threshold. However, the standard states that agencies should consider whether period cost would be distorted or asset values understated by expensing the purchase. We found that the EPA did not consider the cost impact on the financial statements and instead relied mainly on the capitalization policy of several other agencies that also have adopted a higher capitalization threshold. We could not independently determine the impact that the change in the capitalization threshold will have on the agency's statements. In addition, the agency wrote off approximately \$300 million in software development costs that could not be readily charged to a project or for projects abandoned. Such costs were unrelated to the change in capitalization threshold. Our opinion is not modified in respect to this matter.

Review of EPA's Required Supplementary Stewardship Information, Required Supplementary Information, Supplemental Information, and Management's Discussion and Analysis

Our audit was conducted for the purpose of forming an opinion on the financial statements as a whole. The Required Supplementary Stewardship Information, Required Supplementary Information, Supplemental Information, and Management's Discussion and Analysis are presented for purposes of additional analysis and are not a required part of the basic financial statements. Such information is the responsibility of management. We obtained information from the EPA

management about its methods for preparing Required Supplementary Stewardship Information, Required Supplementary Information, Supplemental Information, and Management's Discussion and Analysis, and we reviewed this information for consistency with the financial statements.

We did not identify any material inconsistencies between the information presented in the EPA's consolidated financial statements and the information presented in the EPA's Required Supplementary Stewardship Information, Required Supplementary Information, Supplemental Information, and Management's Discussion and Analysis.

Our audit was not designed to express an opinion and, accordingly, we do not express an opinion on the EPA's Required Supplementary Stewardship Information, Required Supplementary Information, Supplemental Information, and Management's Discussion and Analysis.

Report on Internal Control Over Financial Reporting

Opinion on Internal Control. In planning and performing our audit, we considered the EPA's internal control over financial reporting by obtaining an understanding of the agency's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of controls. We did this as a basis for designing our auditing procedures for the purpose of expressing an opinion on the financial statements and to comply with OMB audit guidance, not to express an opinion on internal control. Accordingly, we do not express an opinion on internal control over financial reporting nor on management's assertion on internal control included in Management's Discussion and Analysis. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

Material Weaknesses and Significant Deficiencies. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or to detect and correct misstatements on a timely basis. A material weakness is a deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected in a timely manner. A significant deficiency is a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness yet is important enough to merit attention by those charged with governance.

Because of inherent limitations in internal control, misstatements, losses or noncompliance may nevertheless occur and not be detected. We noted certain matters discussed below involving the internal control and its operation that we consider to be significant deficiencies, two of which we consider to be material weaknesses. These issues are summarized below and detailed in Attachment 1.

Material Weaknesses

PROPERTY

EPA's Accounting for Software Continues to Be a Material Weakness

We previously reported the EPA's accounting for software as a material weakness in our FYs 2014 through 2016 audits. While we note that the agency has taken steps to address its software material weakness, the EPA continues to experience problems in adequately documenting capitalized software transactions. In FY 2017, we found that the EPA had misposted entries leading to misstated depreciation and amortization expense and loss on disposal of asset costs. Federal standards require that transactions be appropriately documented and that internal control be maintained. Failure to properly record capital software transactions in the agency's property management system and Compass Financials—the agency's accounting system—compromises the accuracy of the EPA's property accounts and depreciation and operating expenses, as well as the accuracy of the agency's financial statements. Consequently, we continue to report accounting for software as a material weakness.

SPECIAL ACCOUNTS

EPA Did Not Properly Record or Reconcile Unearned Revenue for Superfund Special Accounts

The EPA did not modify the accounting model in the accounting system to properly record all Superfund special accounts activity or perform a comprehensive reconciliation of Superfund special accounts general ledger balances to the special accounts database detail during FY 2017. In OIG Report No. 17-F-0046, *Audit of EPA's Fiscal Years 2016 and 2015 Consolidated Financial Statements*, issued November 15, 2016, we reported as a material weakness that the EPA did not properly record or reconcile unearned revenue for Superfund special accounts in FY 2016. During FY 2017, we found that the EPA did not implement the corrective actions to complete the new posting model change, nor did the agency perform a comprehensive reconciliation of special accounts. As a result, the EPA cannot ensure the accuracy of the unearned revenue and financial statements.

Significant Deficiencies

CASH

Additional Efforts Needed to Resolve EPA's Cash Differences With Treasury

As of September 30, 2017, there was \$2.2 million in cash differences between the EPA and U.S. Treasury cash balances. We previously reported the EPA's long-standing cash differences with Treasury as a significant deficiency in our FYs 2015 and 2016 audit reports on the financial statements. Treasury's guidance requires the EPA to correct and resolve any differences between the Treasury's and EPA's Fund Balance with Treasury. However, the EPA's Office of the Chief Financial Officer (OCFO) did not have effective

internal control to adequately monitor the internal cash differences and ensure that the EPA resolved the differences with Treasury. Unresolved differences may result in misstatements of the EPA's Fund Balance with Treasury and financial statements, as well as increase the risk of fraud.

INFORMATION TECHNOLOGY

EPA Needs to Appoint a Project Manager to Oversee Management of Compass Financials and Improve Acquisition Planning

EPA's Compass Financials application—a major information technology (IT) investment—lacks an oversight structure to ensure that personnel implement agency policies and procedures and guide the project through the acquisition process. OMB Circular A-130, *Managing Information as a Strategic Resource*, Appendix I-13-j(2), requires agencies to provide oversight of information systems that are used by contractors or that collect or maintain federal information. This oversight includes the responsibility to implement policies and procedures for security controls and accountability for information systems. Paragraph 7.1.1.2 of the EPA's Acquisition Guide requires acquisition planning for all acquisitions. The guide defines "acquisition planning" as the process by which all personnel responsible for an acquisition coordinate to fulfill agency needs in a timely manner and at a reasonable cost.

Attachment 2 contains the status of issues reported in prior years' reports. The issues included in the attachment should be considered among the EPA's significant deficiencies for FY 2017. We reported less significant internal control matters to the agency during the course of the audit. We will not issue a separate management letter.

Comparison of EPA's FMFIA Report With Our Evaluation of Internal Control

OMB Bulletin No. 17-03, *Audit Requirements for Federal Financial Statements*, requires the OIG to compare material weaknesses disclosed during the audit with those material weaknesses reported in the agency's FMFIA report that relate to the financial statements. The OIG is also required to identify material weaknesses disclosed by the audit that were not reported in the agency's FMFIA report.

For financial statement audit and financial reporting purposes, OMB defines material weaknesses in internal control as a deficiency or combination of deficiencies in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis.

The agency reported Capitalized Software and Accounting for Unearned Revenue as material weaknesses in FY 2017. Capitalized software continues to be reported as a material weakness in the design or operation of internal control. The agency is in the process of developing a corrective action plan for Accounting for Unearned Revenue.

Tests of Compliance With Laws, Regulations, Contracts and Grant Agreements

EPA management is responsible for complying with laws, regulations, contracts and grant agreements applicable to the agency. As part of obtaining reasonable assurance about whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, including those governing the use of budgetary authority, regulations, contracts and grant agreements that have a direct effect on the determination of material amounts and disclosures in the financial statements. We also performed certain other limited procedures as described in *Codifications of Statements on Auditing Standards*, AU-C 250.14-16, "Consideration of Laws and Regulations in an Audit of Financial Statements." OMB Bulletin 17-03, *Audit Requirements for Federal Financial Statements*, requires that we evaluate compliance with federal financial statement system requirements, including the requirements referred to in the Federal Financial Management Improvement Act of 1996 (FFMIA). We limited our tests of compliance to these provisions and did not test compliance with all laws and regulations applicable to the EPA.

Opinion on Compliance With Laws, Regulations, Contracts and Grant Agreements

Providing an opinion on compliance with certain provisions of laws, regulations, contracts and grant agreements was not an objective of our audit and, accordingly, we do not express such an opinion. A number of ongoing investigations involving the EPA's grantees and contractors could disclose violations of laws and regulations, but a determination about these cases has not been made.

We did not identify any significant matters involving compliance with laws and regulations that came to our attention during the course of the audit.

Federal Financial Management Improvement Act Noncompliance

Under FFMIA, we are required to report whether the agency's financial management systems substantially comply with the federal financial management systems requirements, applicable federal accounting standards, and the United States Government Standard General Ledger at the transaction level. To meet the FFMIA requirement, we performed tests of compliance with FFMIA Section 803(a) requirements and used the OMB Memorandum M-09-06-23, *Implementation Guidance for the Federal Financial Management Improvement Act*, dated January 9, 2009, to determine substantial noncompliance with FFMIA.

The results of our tests did not disclose any instances of noncompliance with FFMIA requirements, including where the agency's financial management systems did not substantially comply with the applicable federal accounting standard.

We did not identify any significant matters involving compliance with laws and regulations related to the agency's financial management systems that came to our attention during the course of the audit.

Audit Work Required Under the Hazardous Substance Superfund Trust Fund

Our audit work was also performed to meet the requirements in 42 U.S.C. § 9611(k) with respect to the Hazardous Substance Superfund Trust Fund to conduct an annual audit of payments, obligations, reimbursements or other uses of the fund. The significant deficiencies reported above also relate to Superfund.

Prior Audit Coverage

During previous financial or financial-related audits, we reported weaknesses that impacted our audit objectives in the following areas:

- ☐ The EPA undercapitalized software costs, leading to restated FY 2013 financial statements and a continued material weakness.
- ☐ The EPA did not capitalize lab renovation costs.
- ☐ The EPA's internal controls over the accountable personal property inventory process need improvement.
- ☐ The EPA's property management system does not reconcile to its accounting system.
- ☐ The EPA did not properly record or reconcile unearned revenue for Superfund special accounts.
- ☐ Originating offices did not forward accounts receivable source documents in a timely manner to the finance center.
- ☐ The EPA should improve controls over expense accrual reversals.
- ☐ The EPA should improve its efforts to resolve its long-standing cash differences with the U.S. Treasury.
- ☐ Financial management system user account management needs improvement.
- ☐ The OCFO lacks internal controls when assuming responsibility for account management procedures of financial systems.
- ☐ Financial and mixed-financial applications did not comply with required account management controls.
- ☐ The EPA needs controls to monitor direct access to its accounting system.

Attachment 2 summarizes the current status of corrective actions taken on prior audit report recommendations related to these issues. We found during our audit that the issues reported in prior audits and listed in Attachment 2 still exist and should be considered as outstanding significant deficiencies and noncompliance issues unless otherwise noted.

Agency Comments and OIG Evaluation

In a memorandum dated November 13, 2017, the Chief Financial Officer responded to our draft report. The EPA agreed with our findings and recommendation and expects to complete the corrective action in FY 2018.

The rationale for our conclusions and a summary of the agency comments are included in the appropriate sections of this report, and the agency's complete response is included as Appendix II to this report.

This report is intended solely for the information and use of the management of the EPA, OMB and Congress, and it is not intended to be and should not be used by anyone other than these specified parties.

A handwritten signature in black ink, appearing to read "Paul C. Curtis". The signature is fluid and cursive, with the first name "Paul" being the most prominent.

Paul C. Curtis
Certified Public Accountant
Director, Financial Statement Audits
Office of Inspector General
U.S. Environmental Protection Agency
November 14, 2017

Internal Control Material Weaknesses and Significant Deficiencies

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Material Weaknesses

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1 – EPA’s Accounting for Software Continues to Be a Material Weakness

We previously reported the EPA’s accounting for software as a material weakness in our FYs 2014 through 2016 audits. While we note that the agency has taken steps to address its software material weakness, the EPA continues to experience problems in adequately documenting capitalized software transactions. In FY 2017, we found that the EPA had misposted entries, leading to misstated depreciation and amortization expense and loss on disposal of asset costs. Federal standards require that transactions be appropriately documented and that internal control be maintained. Failure to properly record capital software transactions in the agency’s property management system and Compass Financials—the agency’s accounting system—compromises the accuracy of the EPA’s property accounts and depreciation and operating expenses, as well as the accuracy of the agency’s financial statements. Consequently, we continue to report accounting for software as a material weakness.

SSFAS No. 10, *Accounting for Internal Use Software*, requires entities to capitalize the costs of software that meet the criteria for general property, plant and equipment. Software life cycle includes three phases: planning, development and operations. Capitalized software costs should include the full costs (direct and indirect) incurred during the software development stage. The Software-In-Development general ledger account represents costs incurred in the software development.¹ Upon completion, costs incurred are capitalized and transferred to the Internal-Use Software general ledger account.² The SSFAS also requires that entities amortize in a systematic and rational manner over the estimated useful life of the software; amortization should begin when that module or component has been successfully tested. The agency’s practice is to capitalize software costs exceeding its annual capitalization threshold of \$250,000 over 7 years. In FY 2017, the agency increased its capitalization threshold for new software projects to \$5 million.

Beginning in FY 2015, the EPA took steps to improve its internal accounting and controls over software costs. In FY 2017, the EPA stated that it reviewed software projects and met with program offices to validate software costs in development and asset values in production. During its efforts to validate software costs, the EPA wrote off approximately \$300 million in software development costs, \$295 million in capitalized software, and \$181 million in associated amortization by reversing entries and creating large abnormal balances in depreciation and amortization expense and other accounts. The agency subsequently corrected the abnormal balance in depreciation and amortization expense, an account that is listed in Note 35 Reconciliation of Net Cost of Operations to Budget Other accounts that were not corrected are included as components of gross costs in the statement of net costs and have no material impact.

The U.S. Government Accountability Office’s (GAO’s) *Standards for Internal Control in the Federal Government* defines the five standards for the minimum level of quality acceptable for internal control in government. Management should design control activities to achieve objectives and respond to risks. The standard for control activities requires appropriate documentation of transactions and internal control. Management is to clearly document internal

¹ Treasury Financial Manual, United States Standard General Ledger Bulletin No. 2017-06, Part 1, Section II: Accounts and Definitions.

² *Ibid.*

control, all transactions and other significant events in a manner that allows the documentation to be readily available for examination. Because the audit trail of supporting documentation was insufficient in determining the validity of the actions taken on the software projects analyzed, our ability to conclude that the entries made were accurately recorded was affected.

Failure to properly record property transactions in the agency's property management system and Compass compromises the accuracy of the EPA's property accounts, depreciation and operating expenses, as well as the accuracy of the agency's financial statements. The agency indicated that it does not expect to complete corrective actions on this material weakness until 2018; thus, we continue to report this material weakness but have no additional recommendations.

Agency Comments and OIG Evaluation

The agency plans to complete corrective actions on this material weakness in FY 2018.

2 – EPA Did Not Properly Record or Reconcile Unearned Revenue for Superfund Special Accounts

The EPA did not modify the accounting model in the accounting system to properly record all Superfund special accounts activity or perform a comprehensive reconciliation of Superfund special accounts general ledger balances to the special accounts database detail during FY 2017. In OIG Report No. 17-F-0046, *Audit of EPA's Fiscal Years 2016 and 2015 Consolidated Financial Statements*, issued November 15, 2016, we reported, as a material weakness, that the EPA did not properly record or reconcile unearned revenue for Superfund special accounts in FY 2016. During FY 2017, we found that the EPA did not implement the corrective actions to complete the new posting model change, nor did the agency perform a comprehensive reconciliation of special accounts. As a result, the EPA cannot ensure the accuracy of the unearned revenue and financial statements.

Federal guidance directs agencies to record cash advances received for long-term projects as unearned revenue:

- ☐ The SFFAS applies to general purpose financial reports of the U.S. Government reporting entities. SFFAS No. 7 is the accounting standard for revenue and other financing sources and directs agencies to record a cash advance for long-term projects as unearned revenue. Revenue should be recognized as costs are incurred to provide the goods and services.
- ☐ Section 122(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622(b)(3)) and Executive Order 12580 authorize the EPA to retain and use funds received through an agreement with potentially responsible parties to address past and/or future response costs. The EPA retains these funds in site-specific accounts called “special accounts.” The EPA should record special account settlement funds received as unearned revenue, and the agency should reduce unearned revenue and recognize earned revenue as expenses are incurred.
- ☐ The GAO’s *Standards for Internal Control in the Federal Government* requires accurate and timely recording of transactions and events, as well as comparison of file totals with control totals.

Attachment 2 includes our FY 2016 recommendations to the OCFO and the status of the EPA’s corrective actions. The agency does not expect to complete corrective actions on this material weakness until 2018; thus, we continue to report this material weakness but have no additional recommendations.

Agency Comments and OIG Evaluation

The agency concurred with our findings and recommendations and plans to complete corrective actions in FY 2018.

3 – Additional Efforts Needed to Resolve EPA’s Cash Differences With Treasury

As of September 30, 2017, there was \$2.2 million in cash differences between the EPA and U.S. Treasury cash balances. We previously reported the EPA’s long-standing cash differences with Treasury as a significant deficiency in our FYs 2015 and 2016 audit reports of the financial statements. Treasury’s guidance requires the EPA to correct and resolve any differences between the Treasury’s and EPA’s Fund Balance with Treasury. However, the EPA’s OCFO did not have effective internal controls to adequately monitor the internal cash differences and ensure that the EPA resolved the differences with Treasury. Unresolved differences may result in misstatements of the EPA’s Fund Balance with Treasury and financial statements, as well as increase the risk of fraud.

The *Treasury Financial Manual*, Volume 1, Section 3335, “Reconciling FMS 224, Section II,” states that agencies should reconcile regional finance center transactions separately from Intra-governmental Payments and Collections transactions by comparing transactions reported in their accounting systems with the transactions reported to Treasury by the regional finance centers and through the Intra-governmental Payment and Collection system. In the month following the reporting month, agencies should correct any disclosed differences. Therefore, for our review, we considered cash differences to be long-standing if they were unresolved for more than 1 month after the initial reporting month.

The EPA’s Resource Management Directive System No. 2540-03-P1, *Fund Balance with Treasury Management Standard Form 224 Reconciliation*, requires the EPA to review and track monthly the differences between the Treasury’s and EPA’s Fund Balance. The directive requires the OCFO’s General Ledger Analysis and Reporting Branch to review monthly the agency financial system of record and to report issues to the respective finance center. The General Ledger Analysis and Reporting Branch is responsible for tracking all budget clearing account items from posting to final disposition. The EPA finance centers are required to provide comments, as needed, to the General Ledger Analysis and Reporting Branch on the monthly cash differences report.

The OCFO prepares a monthly cash difference report by accounting point and treasury symbol to identify and resolve differences between the Treasury and EPA records. We found that the EPA’s Washington Finance Center continues to have long-standing unresolved cash differences. As of September 30, 2017, the General Ledger Analysis and Reporting Branch reported \$73.5 million in cash differences, including long-standing differences of \$2.2 million, at the Washington Finance Center. These long-standing differences remained unresolved for at least 4 months.

The OCFO did not adequately monitor the internal cash differences at the transaction level to ensure that the EPA resolved the differences with Treasury. The General Ledger Analysis and Reporting Branch relied on the accounting points to resolve individual cash differences. However, the Washington Finance Center did not resolve its long-standing differences. Therefore, the General Ledger Analysis and Reporting Branch did not have effective internal controls to resolve the individual cash differences.

By not adequately monitoring and resolving all cash differences, the EPA increases the risk of unrecorded transactions and fraud. Unrecorded transactions misstate the EPA's Fund Balance with Treasury and the financial statements. During our FY 2015 financial statements audit, we found that the EPA had not resolved \$2.6 million in long-standing cash differences between the EPA and Treasury balances. Based on our findings, we recommended in our FY 2015 report—OIG Report No. 16-F-0040, *Audit of EPA's Fiscal Years 2015 and 2014 Consolidated Financial Statements*, issued November 16, 2015—that the OCFO do the following:

- ☐ Require the General Ledger Analysis and Reporting Branch to monitor and work with the finance centers to resolve all internal cash differences to ensure the EPA resolves all of the differences with Treasury.
- ☐ Require the Payroll accounting point and Washington Finance Center to research and resolve cash differences.

During our FY 2016 audit, we found that the EPA had made efforts to identify and resolve its long-standing cash differences. Furthermore, the EPA was still working on completing its corrective action to require the Payroll accounting point and the Washington Finance Center to research and resolve cash differences. We therefore did not make any additional recommendations regarding this issue in our FY 2016 financial audit report, *OIG Report No. 17-F-0046, EPA's Fiscal Years 2016 and 2015 Consolidated Financial Statements*, issued November 15, 2016.

During our current audit, we noted major improvements, but long-standing unresolved cash differences of \$2.2 million remain at the Washington Finance Center. However, since the EPA is still working on resolving cash differences and completing its corrective action, we do not make any new recommendations in our FY 2017 financial audit report.

Agency Comments and OIG Evaluation

The agency responded that it will continue to research efforts to resolve the remaining differences.

4 – EPA Needs to Appoint a Project Manager to Oversee Management of Compass Financials and Improve Acquisition Planning

The EPA's Compass Financials application—a major IT investment—lacks an oversight structure to ensure that personnel implement agency policies and procedures and guide the project through the acquisition process. OMB Circular A-130, *Managing Information as a Strategic Resource*, at Appendix I-13-j(2), requires agencies to provide oversight of information systems that are used by contractors or that collect or maintain federal information. This oversight includes the responsibility to implement policies and procedures for security controls and accountability for information systems. Paragraph 7.1.1.2 of the EPA's Acquisition Guide requires acquisition planning for all acquisitions. The guide defines “acquisition planning” as the process by which all personnel responsible for an acquisition coordinate to fulfill agency needs in a timely manner and at a reasonable cost.

Hiring a Project Manager for Compass Financials

As of April 9, 2017, the EPA did not have a Project Manager assigned to oversee the management of Compass Financials. During the audit and after inquiries by the OIG, the EPA issued a public and internal vacancy announcement on June 28, 2017, to recruit and fill the IT Project Manager position within the OCFO. OCFO representatives attributed the delay in hiring a Project Manager for Compass Financials to EPA restrictions and a hold placed on hiring. However, despite these restrictions and hold, the EPA could have appointed an internal employee to serve as the acting Project Manager until the office was capable of filling the position permanently.

The OMB specifies that major acquisitions be overseen by personnel possessing the Federal Acquisition Certification for Program and Project Managers (FAC-P/PM). Attachment 1, Section 5, of OMB's December 16, 2013, memorandum regarding the FAC-P/PM outlines the certification requirements that managers must meet to oversee major acquisitions:

Program managers assigned to programs considered major acquisitions by their agency, and as defined by Office of Management and Budget (OMB) Circular A-11 (IT and non-IT), must be senior-level certified unless an extension is granted by the appropriate agency official. ... Project managers assigned to lead projects within these major acquisitions must be, at a minimum, mid-level certified.

In addition, Attachment 4 (Sections 4 and 5) of OMB's 2013 memorandum emphasizes that Program and Project Managers “managing major IT investments shall hold senior level FAC-P/PM-IT specialization.” This memorandum also indicates that Project Managers who do not already have their FAC-P/PM-IT must obtain it within 1 year of being assigned to a relevant project.

The absence of a Project Manager leaves the EPA without a knowledgeable expert to fulfill critical oversight responsibilities, including coordinating with agency representatives, making technical and programmatic decisions, and reviewing legislation and authoritative issuances for Compass Financials and other systems.

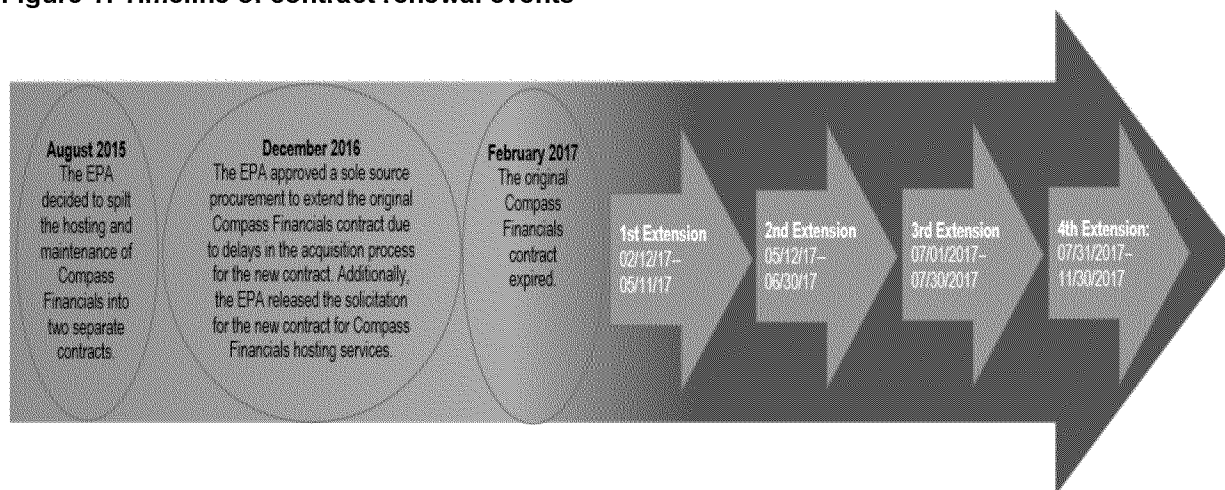
Issuing a Follow-On Contract for Hosting Compass Financials

The lack of an assigned Project Manager contributed, in part, to the OCFO not having a permanent contract to manage costs for operating Compass Financials. The original contract for Compass Financials, which was awarded in February 2007, provided for licensing, hosting and maintenance services under a sole source procurement. As a result of the EPA's Federal Information Technology Acquisition Reform Act³ process in August 2015, the agency's Chief Information Officer decided to split the hosting from the licensing and maintenance of Compass Financials into separate contracts. The Office of Environmental Information estimated that the EPA could achieve \$3 million in cost savings over 7 years by procuring the most competitive hosting solution for Compass Financials.

The Federal Information Technology Acquisition Reform Act puts federal agency Chief Information Officers in control of IT investments and seeks to enable effective planning and budgeting for IT resources.

Although the original contract expired in February 12, 2017, a solicitation for the hosting of Compass Financials was not released until December 2016. To maintain the services of the incumbent vendor until a new contract was awarded, the Office of Acquisition Management—within the EPA's Office of Administration and Resources Management—had to procure sole source extensions of the original contract. Figure 1 shows the timeline of contract renewal events.

Figure 1: Timeline of contract renewal events



Source: OIG-generated diagram.

As of September 30, 2017, the original contract was on its fourth extension. These extensions cost the EPA over \$7.4 million (Table 1). The cost of the fourth extension increased \$11,703 over the average cost per day of the first three extensions, from \$21,003 to \$32,706; therefore, the total cost of the fourth extension was \$1,416,118 more than the average cost of the first three extensions. The fourth extension covered the software license and operations and maintenance, in addition to “change requests and enhancements arising from new, previously unidentified, missed, or incomplete Compass Financials requirements.”

³ The Federal Information Technology Acquisition Reform Act became law as part of the National Defense Authorization Act for FY 2015 (Title VIII, Subtitle D, H.R. 3979).

Table 1: Summary of extensions

Extension	Period	Cost	Number of days extended	Cost per day
1st extension	02/12/17–05/11/17	\$1,857,628	88	\$21,109.41
2nd extension	05/12/17–06/30/17	1,059,353	49	21,619.45
3rd extension	07/01/17–07/31/17	608,438	30	20,281.27
4th extension	08/01/17–11/30/17	3,957,527	121	\$32,706.83
Total Cost		\$7,482,946		

Source: OIG-generated table based on contract task orders.

In addition, based on the Office of Environmental Information’s \$3 million cost-savings estimate for competitively procuring hosting services for Compass Financials, the EPA may have overspent \$250,000 by having to extend the sole source contract.

The Contracting Officer for the Compass Financials contract indicated that the Office of Acquisition Management had to accommodate requests from lawyers, perform several market research efforts, and revise the new solicitation several times. These initiatives all delayed the solicitation and award of the new hosting contract.

Information obtained from the Office of Environmental Information indicates that 17 of the EPA’s systems are currently hosted by contractors. The EPA should therefore be familiar with the acquisition process for hosting services and should have been able to implement a timely acquisition plan to contract the hosting of Compass Financials. We attribute this deficiency to the EPA not developing an agencywide acquisition planning strategy for all the agency’s systems.

We did not make a recommendation regarding this issue in this report. On June 24, 2016, the OIG initiated an audit of EPA’s acquisition planning. The findings and recommendations resulting from that audit are detailed in OIG Report No. [18-P-0038](#), *Improved Acquisition Planning Will Help EPA Reduce Hundreds of Millions of Dollars in High-Risk Contracts*, issued November 15, 2017.

Action Taken as a Result of Our Audit

As a result of this audit finding, the OCFO outlined corrective actions and provided a completion date for its corrective action. The EPA indicated that a Project Manager for Compass Financials was appointed on October 1, 2017. However, it is incumbent upon the OCFO to monitor the Project Manager’s progress in obtaining the FAC-P/PM-IT within the 1-year deadline and to take corrective actions if the Project Manager is unable to complete the certification requirements.

Recommendation

We recommend that the Chief Financial Officer:

1. Require the Compass Financials Project Manager to obtain the Federal Acquisition Certification for Program and Project Managers with the Information Technology specialization within the 1-year deadline, as required by the Office of Management and Budget, and take corrective actions if the Project Manager is not able to complete the certification requirements by the deadline.

Agency Comments and OIG Evaluation

The OCFO agreed with our finding and recommendation. The office stated it would complete the corrective action by October 1, 2018. We consider this recommendation resolved with corrective action pending.

Status of Prior Audit Report Recommendations

The EPA is working to strengthen its audit management procedures to address audit findings in a timely manner and to complete corrective actions expeditiously and effectively. Strengthened procedures will also help improve environmental results. In FY 2017, the EPA's acting Chief Financial Officer, as the Agency Follow-Up Official, issued a memorandum to senior agency leadership, reminding senior managers of their stewardship responsibilities for developing and promptly implementing effective corrective actions. The agency also accomplished these other notable actions to strengthen its audit management procedures:

- ❑ Completed the revised EPA Manual 2750, *Audit Management Procedures*, effective March 28, 2017. EPA Manual 2750 is a comprehensive audit management guide that addresses OIG, GAO and Defense Contract Audit Agency audits. The document was posted on the EPA intranet on May 5, 2017.
- ❑ Issued progress reports by the OCFO highlighting the status of management decisions and corrective actions. The reports are shared with program office and regional managers throughout the agency to keep them informed of the status of progress on their audits.

In addition, the EPA maintained its commitment to engage early with the OIG on audit findings and to develop effective corrective actions that address OIG recommendations. Table 2 outlines the status of past significant deficiency findings that have not been resolved to date.

Table 2: Significant deficiency issues not fully resolved

❑	<p>EPA's Accounting for Software Continues to Be a Material Weakness</p> <p>In our FYs 2014, 2015 and 2016 audits, we identified the agency's accounting for software as a material weakness. In FY 2014, the agency found it had undercapitalized software by expensing approximately \$255 million in software costs over a 7-year period. The undercapitalized software and related equity accounts indicate that the agency has a material weakness in internal control over identifying and capitalizing software; internal control failed to detect and correct the errors, resulting in a misstatement of the FY 2013 financial statements. During FY 2017, the agency continued to take corrective actions to improve its accounting for software. While the agency has made progress and taken steps to correct weaknesses, not all corrective actions have been completed. Corrective actions for the remaining recommendations are not due to be completed until 2018.</p>
❑	<p>EPA Did Not Capitalize Lab Renovation Costs</p> <p>In our FY 2014 audit, we found that the EPA did not capitalize approximately \$8 million of Research Triangle Park lab renovations. As a result, the EPA did not properly classify the lab renovations as a capital improvement. The agency capitalized and booked the Research Triangle Park lab renovation costs and related depreciation. One corrective action was partially completed: The EPA Office of General Counsel believed that the 1999 legal opinion was still a viable legal opinion but did not provide examples to guide the agency's determinations of when renovation work should be funded from agency program appropriations or Building and Facilities funds. Corrective actions for other recommendations related to this finding were not due until September 2017; however, the agency revised the expected completion date to February 28, 2018.</p>

□	<p>EPA's Internal Controls Over Accountable Personal Property Inventory Process Need Improvement</p> <p>In our FY 2014 audit, we noted that the EPA reported a \$2.6 million difference between the amount of accountable personal property recorded in the property management system (Maximo) and the amount of physical inventory for FY 2014. The EPA also identified 573 property items not recorded in Maximo. During our FY 2015 audit, we found that the agency made progress and took steps to correct the differences between the amount of personal property recorded in Maximo and the amount of physical inventory. However, although the agency implemented its corrective actions, we have not assessed the effectiveness of these actions.</p>
□	<p>EPA's Property Management System Does Not Reconcile to Its Accounting System (Compass)</p> <p>During our FY 2014 audit, we found that the EPA did not reconcile \$100 million of capital equipment within its property management subsystem (Maximo) to relevant financial data within its accounting system (Compass). The inability to reconcile the property subsystem with Compass can compromise the effectiveness and reliability of financial reporting. We previously reported on this issue in our FYs 2012 and 2013 financial statement audit reports. In FY 2014, the agency issued procedures to reconcile capital property. The agency stated that it had begun to resolve the differences between Maximo and Compass; however, problems continue to exist. In FYs 2015 and 2016, we again reported this weakness as a significant deficiency; therefore, the EPA's corrective actions were not yet effective. In FY 2017, the agency informed us that this corrective action was actually completed in September 2016; however, no supporting documentation has been provided to date. Therefore, we were not able to assess the effectiveness of the action.</p>
□	<p>EPA Did Not Properly Record or Reconcile Unearned Revenue for Superfund Special Accounts</p> <p>During FY 2015, the EPA misstated earned and unearned revenue for Superfund special accounts. The EPA changed its accounting practice in FY 2015 to record settlement proceeds in Superfund special accounts as unearned revenue. However, in our FY 2016 audit, we found that the EPA did not properly record \$168 million of unearned revenue for Superfund special accounts or perform a comprehensive reconciliation of Superfund special accounts unearned revenue general ledger balances to the special accounts database detail. The EPA made these errors because it did not modify the accounting model for special accounts in Compass Financials. During our FY 2017 audit, we found that the EPA would not be able to complete its corrective actions to modify the accounting model or reconcile Superfund special accounts unearned revenue general ledger balances to the special accounts database detail until FY 2018.</p>
□	<p>Originating Offices Did Not Timely Forward Accounts Receivable Source Documents to the Finance Center</p> <p>In FY 2014, we found that the EPA and the Department of Justice did not forward accounts receivable source documents to the finance center in a timely manner. During FY 2015, the EPA's Office of Enforcement and Compliance Assurance issued a memorandum reminding the regions to provide accounts receivable enforcement documentation to the finance center in a timely manner. In addition, the OCFO updated the EPA's Superfund guidance to direct originating offices to send accounts receivable control forms to the finance center in a timely manner. While we have noted some improvements in the Cincinnati Finance Center's timely receipt of legal documents, we still identified instances of untimely receipt during FYs 2015, 2016 and 2017. Therefore, the agency's corrective actions are not completely effective, and we will continue to evaluate how timely the receipt of accounts receivable source documents is in FY 2018.</p>

□	<p>EPA Should Improve Controls Over Expense Accrual Reversals</p> <p>In FY 2012, the EPA did not reverse approximately \$108 million of FY 2011 year-end expense accruals. The EPA did not reverse the accrual transactions because the Compass posting configuration for the applicable fund category was inaccurate. By not reversing the accruals in a timely manner, the EPA materially overstated the accrued liability and expense amounts in the quarterly financial statements. The EPA's Policy Announcement No. 95-11, <i>Policies and Procedures for Recognizing Year-End Accounts Payable and Related Accruals</i>, requires the agency to "recognize and report all accounts payable and related accruals in its year-end financial reports." In our audit report issued November 16, 2012, we recommended that the EPA update Policy Announcement No. 95-11 to require reconciliations of accruals and accrual reversals. EPA officials concurred with our finding and recommendation and took corrective action by implementing an independent review of the FY 2012 accruals and reversals. The EPA also performed accrual reviews prior to the issuance of the FY 2013 quarterly financial statements. During the FY 2013 audit, the EPA extended the target completion date for updating Policy Announcement No. 95-11 to June 2014. During our FY 2014 audit, the EPA extended the target completion date again to December 31, 2015, due to workload and resource constraints. In FY 2015, the EPA again revised the date to December 31, 2016, to explore new methods to streamline the accrual processes and take advantage of efficiencies available in the Compass upgrade scheduled for February 2016. During our FY 2016 audit, the EPA anticipated being able to meet its targeted completion date (December 31, 2016). In FY 2017, the EPA developed Resource Management Directive System 2540-04-P3, <i>Accounts Payable Policies and Procedures for Recognizing Year-End Accrued Liabilities for Grants</i>, which superseded Policy Announcement No. 95-11. Resource Management Directive System 2540-04-P3 addresses the EPA's requirements for recording accrued liabilities for grants in the EPA's financial system. In addition, the EPA stated that it updated the policy for the accounts payable grants and it started drafting the policy for other types of accruals in April 2017. The policy drafting process entails identification of accrual process holders with primary points of contact, documentation gathering, development of the policy for each type of accrual by working with primary points of contact, and final review of the policy document. The EPA projected a June 2018 completion date for updating the policy for all accruals.</p>
□	<p>EPA Should Improve Its Efforts to Resolve EPA's Longstanding Cash Differences With Treasury</p> <p>During our FY 2015 audit, we found that the EPA had not resolved \$2.6 million in long-standing cash differences between the EPA and Treasury balances. Based on our findings, we recommended that the Chief Financial Officer require the General Ledger Analysis and Reporting Branch to monitor and work with the finance centers to resolve all internal cash differences to enable the EPA to resolve all differences with Treasury. We also recommended that the Chief Financial Officer require the Payroll accounting point and Washington Finance Center to research and resolve cash differences. The agency agreed with our finding and recommendations. According to the agency's corrective action status report, as of November 2, 2016, the agency completed its corrective action for the first recommendation. During our FY 2016 audit, we found that the EPA made efforts to identify and resolve its long-standing cash differences and that the agency was working on completing its corrective action to require the Payroll accounting point and the Washington Finance Center to research and resolve cash differences. We did not make any additional recommendations regarding this issue in our FY 2016 financial audit report but included it as an unresolved significant deficiency. During our FY 2017 audit, we noted major improvements, but long-standing unresolved cash differences of \$2.2 million remain at the Washington Finance Center. Since the EPA is still working on resolving cash differences and completing its corrective action, we did not make any new recommendations in our FY 2017 financial audit report.</p>
□	<p>Financial Management System User Account Management Needs Improvement</p> <p>During our FY 2009 audit, we found that the EPA had not established policies that clearly define incompatible functions and associated processes to ensure that proper separation of duties are enforced within the financial system application. Based on our findings, we recommended in our FY 2009 report that the OCFO ensure that all new and updated financial management systems include an automated control to enforce separation of duties. The agency agreed with our finding and recommendation. The EPA had considered this recommendation closed; however, the OCFO agreed in FY 2016 to develop alternative corrective actions for this recommendation, with a planned completion date of December 31, 2017. In FY 2017, the OCFO extended the completion date to December 31, 2018.</p>

□	<p>OCFO Lacks Internal Controls When Assuming Responsibility for Account Management Procedures of Financial Systems</p> <p>During our FY 2015 audit, we found that the OCFO's Application Management staff assumed responsibility for managing oversight of users' access to the Payment Tracking System without ensuring that the system had documentation covering key account management procedures. Based on our findings, we recommended in our FY 2015 report that the Chief Financial Officer implement an internal control process for transferring the management of an application's user access to the Application Management staff. We also recommended that the Chief Financial Officer conduct an inventory of OCFO systems managed by the Application Management staff and create or update supporting access management documentation for each application. Further, we recommended that the Chief Financial Officer work with the Contracting Officer to update applicable contract clauses and distribute updated access management documentation to contractors supporting the user account management function for applications managed by the Application Management staff. The agency agreed with our finding and recommendations. In FY 2017, the OCFO extended the completion date for the first and second recommendations to December 31, 2018. In addition, the OCFO modified the corrective action for the third recommendation but is adhering to the original expected completion date of March 31, 2018.</p>
□	<p>Financial and Mixed-Financial Applications Did Not Comply With Required Account Management Controls</p> <p>During our FY 2015 audit, we found that the EPA lacked management oversight to ensure that responsible individuals fully develop and implement required account management controls for the EPA's financial and mixed-financial systems. Based on our finding, we recommended in our FY 2015 report that the Chief Financial Officer review and update account management documentation and establish procedures for financial systems. We also recommended that the Chief Financial Officer issue a memorandum emphasizing the need to follow access control procedures, conduct an inventory of financial systems to ensure the systems are entered into Xacta to monitor compliance with required information systems security controls, and implement a process to notify the OCFO of the status of corrective actions entered into Xacta. The agency agreed with our finding and recommendations. According to the agency's corrective action status report, as of June 27, 2016, the agency completed corrective actions for all but the first recommendation. The EPA is currently working on reviewing and updating account management documentation and establishing procedures for financial systems, but in FY 2017, the OCFO extended the completion date for this corrective action to December 31, 2018.</p>
□	<p>EPA Needs Controls to Monitor Direct Access to the Compass Financials Database</p> <p>During our FY 2016 audit, we found that the EPA did not establish controls to monitor direct access to data within the Compass Financials database. Based on our findings, we recommended in our FY 2016 report that the Chief Financial Officer work with the Compass Financials service provider to establish controls for creating and locking administrative accounts. We also recommended that the Chief Financial Officer work with the Compass Financials service provider to develop and implement a methodology to monitor accounts with administrative capabilities. Further, we recommended that the Chief Financial Officer enter the Continuous Monitoring Assessment recommendations into the agency's system used for monitoring the remediation of information security corrective actions. The agency concurred with our recommendations. According to the agency's corrective action status report, as of August 1, 2017, the agency is adhering to the planned completion date of September 30, 2021, for the first and second recommendations. Corrective actions for the third recommendation have been completed.</p>

Source: OIG analysis.

Status of Current Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	17	Require the Compass Financials Project Manager to obtain the Federal Acquisition Certification for Program and Project Managers with the Information Technology specialization within the 1-year deadline, as required by the Office of Management and Budget, and take corrective actions if the Project Manager is not able to complete the certification requirements by the deadline.	R	Chief Financial Officer	10/1/18	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

***EPA's FYs 2017 and 2016
Consolidated Financial Statements***

EPA's Fiscal 2017 and 2016 Consolidated Financial Statements

Financial Section

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Principal Financial Statements

United States Environmental Protection Agency CONSOLIDATED BALANCE SHEET As of September 30, 2017, and 2016 (Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2016</u>
Assets:		
Intragovernmental:		
Fund Balance with Treasury (Note 2)	\$ 8,464,107	\$ 8,341,156
Investments (Note 4)	5,326,013	5,308,734
Accounts Receivable, Net (Note 5)	17,804	7,210
Other (Note 6)	200,822	206,693
Total Intragovernmental	14,008,746	13,863,793
Cash and Other Monetary Assets (Note 3)	10	10
Accounts Receivable, Net (Note 5)	508,171	486,814
Property, Plant & Equipment, Net (Note 9)	719,488	1,041,200
Other (Note 6)	8,241	7,074
Total Assets	\$ 15,244,656	\$ 15,398,891
Stewardship PP& E (Note 11)		
Liabilities:		
Intragovernmental:		
Accounts Payable and Accrued Liabilities (Note 8)	\$ 97,035	\$ 73,891
Debt Due to Treasury (Note 10)	-	-
Custodial Liability (Note 12)	22,548	42,579
Other (Notes 13)	134,983	82,412
Total Intragovernmental	254,566	198,882
Accounts Payable & Accrued Liabilities (Note 8)	523,713	521,056
Pensions & Other Actuarial Liabilities (Note 15)	45,245	45,037
Environmental Cleanup Costs (Note 21)	39,544	36,103
Cash-out Advances, Superfund (Note 16)	3,514,426	3,264,224
Commitments & Contingencies (Note 17)	-	-
Payroll & Benefits Payable (Note 32)	205,632	210,797
Other (Note 13)	145,328	425,621
Total Liabilities	\$ 4,728,454	\$ 4,701,720
Net Position:		
Unexpended Appropriations - Funds from Dedicated Collections (Note 18)	3,697	4,080
Unexpended Appropriations - Other Funds	7,302,077	7,263,400
Cumulative Results of Operations - Funds from Dedicated Collections (Note 18)	2,638,364	2,577,360
Cumulative Results of Operations - Other Funds	572,065	852,331
Total Net Position	10,516,203	10,697,171
Total Liabilities and Net Position	\$ 15,244,656	\$ 15,398,891

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
CONSOLIDATED STATEMENT OF NET COST
For the Fiscal Years Ended September 30, 2017 and 2016
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2016</u>
Costs:		
Gross Costs (Note 19)	\$ 9,024,232	\$ 9,176,572
Less:		
Earned Revenue (Note 19)	<u>532,663</u>	<u>448,388</u>
Net cost of operations (notes 25 and 35)	<u><u>\$ 8,491,569</u></u>	<u><u>\$ 8,728,184</u></u>

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
CONSOLIDATED STATEMENT OF NET COST BY MAJOR PROGRAM
For the Fiscal Years Ended September 30, 2017
(Dollars in Thousands)

	Environ. Programs & Mgmt.	Leaking Underground Storage Tanks	Science & Technology	Superfund	State and Tribal Assistance Agreements	Other	Consolidated Totals
Costs:							
Intragovernmental	\$ 924,012	4,437	200,358	275,695	54,159	112,492	1,571,153
WCF Eliminations	-	-	-	-	-	(211,512)	(211,512)
With the Public	2,093,973	85,996	612,169	1,219,020	3,395,913	257,520	7,664,591
Total Costs	<u>\$ 3,017,985</u>	<u>90,433</u>	<u>812,527</u>	<u>1,494,715</u>	<u>3,450,072</u>	<u>158,500</u>	<u>9,024,232</u>
Less:							
Earned Revenue, Federal	\$ 40,400	-	7,356	26,733	-	231,229	305,718
WCF Eliminations	-	-	-	-	-	(211,290)	(211,290)
Earned Revenue, non-Federal	10,275	-	1,274	389,103	-	37,583	438,235
Total Earned Revenue	<u>50,675</u>	<u>-</u>	<u>8,630</u>	<u>415,836</u>	<u>-</u>	<u>57,522</u>	<u>532,663</u>
(Note19)	-	-	-	-	-	-	-
Net Cost of Operations	<u>\$ 2,967,310</u>	<u>90,433</u>	<u>803,897</u>	<u>1,078,879</u>	<u>3,450,072</u>	<u>100,978</u>	<u>8,491,569</u>

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
CONSOLIDATED STATEMENT OF NET COST BY MAJOR PROGRAM
For the Fiscal Year Ended September 30, 2016
(Dollars in Thousands)

	Environ. Programs & Mgmt.	Leaking Underground Storage Tanks	Science & Technology	Superfund	State and Tribal Assistance Agreements	Other	Consolidated Totals
Costs:							
Intragovernmental	\$ 942,545	4,820	195,740	65,405	57,263	65,317	1,331,090
With the Public	1,764,864	95,761	596,663	1,147,693	3,927,269	313,132	7,845,482
Total Costs	<u>\$ 2,707,409</u>	<u>100,581</u>	<u>792,403</u>	<u>1,213,098</u>	<u>3,984,632</u>	<u>378,449</u>	<u>9,176,572</u>
Less:							
Earned Revenue, Federal	\$ 29,960	-	7,217	43,894	-	22,933	104,004
Earned Revenue, non-Federal	1,575	-	1,084	302,087	-	39,638	344,384
Total Earned Revenue	<u>31,535</u>	<u>-</u>	<u>8,301</u>	<u>345,981</u>	<u>-</u>	<u>62,571</u>	<u>448,388</u>
(Note19)	-	-	-	-	-	-	-
Net Cost of Operations	<u>\$ 2,675,874</u>	<u>100,581</u>	<u>784,102</u>	<u>867,117</u>	<u>3,984,632</u>	<u>315,878</u>	<u>8,728,184</u>

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
CONSOLIDATED STATEMENT OF CHANGES IN NET POSITION
For the Fiscal Years Ended September 30, 2017
(Dollars in Thousands)

	FY 2017 Funds from Dedicated Collections	FY 2017 All Other Funds	FY 2017 Consolidated Total
Cumulative Results of Operations:			
Net Position - Beginning of Period	\$ 2,577,361	\$ 852,331	\$ 3,429,692
Beginning Balances, as Adjusted	2,577,361	852,331	3,429,692
Budgetary Financing Sources:			
Appropriations Used	2,991	7,945,939	7,948,930
Non-exchange Revenue - Securities Invest. (Note 34)	47,445	-	47,445
Non-exchange Revenue - Other (Note 34)	246,289	-	246,289
Transfers In/Out (Note 30)	(13,211)	24,041	10,830
Trust Fund Appropriations	953,850	(1,038,131)	(84,281)
Total Budgetary Financing Sources	1,237,364	6,931,849	8,169,213
Other Financing Sources (Non-Exchange):			
Imputed Financing Sources (Note 31)	13,425	89,669	103,094
Total Other Financing Sources	13,425	89,668	103,094
Net Cost of Operations	(1,189,785)	(7,301,784)	(8,491,569)
Net Change	61,004	(280,266)	(219,262)
Cumulative Results of Operations	\$ 2,638,364	\$ 572,065	\$ 3,210,429
	FY 2017 Funds from Dedicated Collections	FY 2017 All Other Funds	FY 2017 Consolidated Total
Unexpended Appropriations:			
Net Position - Beginning of Period	\$ 4,080	\$ 7,263,400	\$ 7,267,480
Beginning Balances, as Adjusted	4,080	7,263,400	7,267,480
Budgetary Financing Sources:			
Appropriations Received	3,178	8,107,870	8,111,048
Other Adjustments (Note 33)	(570)	(123,254)	(123,824)
Appropriations Used	(2,991)	(7,945,939)	(7,948,930)
Total Budgetary Financing Sources	(383)	38,677	38,294
Total Unexpended Appropriations	3,697	7,302,077	7,305,774
Total Net Position	\$ 2,642,061	\$ 7,834,599	\$ 10,516,203

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
CONSOLIDATED STATEMENT OF CHANGES IN NET POSITION
For the Fiscal Year Ended September 30, 2016
(Dollars in Thousands)

	FY 2016 Funds from Dedicated Collections	FY 2016 All Other Funds	FY 2016 Consolidated Total
Cumulative Results of Operations:			
Net Position - Beginning of Period	\$ 2,776,112	\$ 783,828	\$ 3,559,940
Beginning Balances, as Adjusted	2,776,112	783,828	3,559,940
Budgetary Financing Sources:			
Appropriations Used	1,807	8,263,715	8,265,522
Non-exchange Revenue - Securities Invest. (Note 34)	38,303	-	38,303
Non-exchange Revenue - Other (Note 34)	231,305	-	231,305
Transfers In/Out (Note 30)	(9,600)	28,789	19,189
Trust Fund Appropriations	711,684	(811,684)	(100,000)
Total Budgetary Financing Sources	973,499	7,480,820	8,454,319
Other Financing Sources (Non-Exchange)			
Transfers In/Out (Note 30)	-	-	-
Imputed Financing Sources (Note 31)	23,954	119,663	143,617
Total Other Financing Sources	23,954	119,663	143,617
Net Cost of Operations	(1,196,204)	(7,531,980)	(8,728,184)
Net Change	(198,751)	68,503	(130,248)
Cumulative Results of Operations	\$ 2,577,361	\$ 852,331	\$ 3,429,692
	FY 2016 Funds from Dedicated Collections	FY 2016 All Other Funds	FY 2016 Consolidated Total
Unexpended Appropriations:			
Net Position - Beginning of Period	\$ 16,579	\$ 7,783,251	\$ 7,799,830
Beginning Balances, as Adjusted	16,579	7,783,251	7,799,830
Budgetary Financing Sources:			
Appropriations Received	3,674	7,783,578	7,787,252
Appropriations Transferred In/Out (Note 30)	(13,294)	12,716	(577)
Other Adjustments (Note 33)	(1,072)	(52,429)	(53,501)
Appropriations Used	(1,807)	(8,263,716)	(8,265,522)
Total Budgetary Financing Sources	(12,499)	(519,851)	(532,350)
Total Unexpended Appropriations	4,080	7,263,400	7,267,482
Total Net Position	\$ 2,581,442	\$ 8,115,732	\$ 10,697,174

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
COMBINED STATEMENT OF BUDGETARY RESOURCES
For the Fiscal Year Ended September 30, 2017 and 2016
(Dollars in Thousands)

	FY 2017	FY 2016
BUDGETARY RESOURCES		
Unobligated balance, brought forward, October 1:	\$ 4,242,051	\$ 4,350,630
Adjustment to Un-Obligation Balance (Allocation Transfer Agencies)	21,150	961
Unobligated Balance Brought Forward, October 1, as adjusted	4,263,201	4,351,591
Recoveries of prior year unpaid obligations (Note 26)	330,486	234,361
Other changes in unobligated balance	(42,261)	(13,622)
Unobligated balance from prior year budget authority, net	4,551,426	4,572,330
Appropriations (discretionary and mandatory)	9,370,266	9,096,422
Spending Authority from offsetting collection (discretionary and mandatory)	680,152	610,181
Total Budgetary Resources	\$ 14,601,844	\$ 14,278,933
STATUS OF BUDGETARY RESOURCES		
New obligations and upward adjustments (total)	\$ 10,354,618	\$ 10,036,882
Unobligated Balance, end of year:		
Apportioned	4,152,585	4,086,727
Unapportioned	1,992	36,008
Total Unobligated balance, end of period (Note 27)	4,154,577	4,122,735
Expired unobligated balance, end of year	92,649	119,316
Total Status of Budgetary Resources	\$ 14,601,844	\$ 14,278,933
CHANGE IN OBLIGATED BALANCE		
Unpaid Obligations:		
Unpaid obligations, brought forward, October 1 (gross)	\$ 8,694,969	\$ 9,104,831
Obligations incurred, net	10,354,618	10,036,882
Outlays (gross)	(9,916,836)	(10,212,494)
Recoveries of prior year unpaid obligations	(330,486)	(234,361)
Unpaid obligations, end of year (gross)	\$ 8,802,265	\$ 8,694,858
Uncollected Payments		
Uncollected customer payments from Federal Sources, brought forward, October 1)	(248,640)	(235,529)
Change in uncollected customer payments from federal sources	(56,729)	(13,111)
Uncollected customer payments from Federal Sources, end of year	(305,369)	(248,640)
Memorandum entries:		
Obligated balance, start of year	\$ 8,446,218	\$ 8,869,302
Obligated balance, end of year (net)	\$ 8,496,895	\$ 8,446,218
BUDGET AUTHORITY AND OUTLAYS, NET:		
Budget authority, gross (discretionary and mandatory)	\$ 10,050,418	\$ 9,706,603
Actual offsetting collections (discretionary and mandatory)	(644,573)	(597,070)
Change in uncollected customer payments from Federal sources (discretionary and mandatory)	(56,729)	(13,111)
Budget Authority, net (discretionary and mandatory)	\$ 9,349,116	\$ 9,096,422
Outlays, gross (discretionary and mandatory)	\$ 9,916,836	\$ 10,212,494
Actual offsetting collections (discretionary and mandatory)	(644,573)	(597,070)
Outlays, net (discretionary and mandatory)	9,272,263	9,615,424
Distributed offsetting receipts (Note 29)	(1,109,453)	(886,453)
Agency outlays, net (discretionary and mandatory)	\$ 8,162,810	\$ 8,728,971

The accompanying notes are an integral part of these statements.

United States Environmental Protection Agency
STATEMENT OF CUSTODIAL ACTIVITY
For the Fiscal Year Ended September 30, 2017 and 2016
(Dollars in Thousands)

	<u>FY 2017</u>	<u>FY 2016</u>
Revenue Activity:		
Sources of Cash Collections:		
Fines and Penalties	\$ 1,571,258	\$ 95,473
Other	29,301	(4,333)
Total Cash Collections	<u>1,600,559</u>	<u>91,140</u>
Accrual Adjustment	(19,545)	7,786
Total Custodial Revenue (Note 24)	<u>1,581,014</u>	<u>98,926</u>
Disposition of Collections:		
Transferred to Others (General Fund)	1,600,593	91,140
Increases/Decreases in Amounts Yet to be Transferred	(19,579)	7,786
Total Disposition of Collections	<u>1,581,014</u>	<u>98,926</u>
Net Custodial Revenue Activity	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes are an integral part of these statements.

Environmental Protection Agency
Notes to the Financial Statements
Fiscal Year Ended September 30, 2017 and September 30, 2016
(Dollars in Thousands)

Note 1. Summary of Significant Accounting Policies

A. Reporting Entities

The EPA was created in 1970 by executive reorganization from various components of other federal agencies to better marshal and coordinate federal pollution control efforts. The Agency is generally organized around the media and substances it regulates - air, water, hazardous waste, pesticides, and toxic substances.

The FY 2017 financial statements are presented on a consolidated basis for the Balance Sheet, Statement of Net Cost, Statement of Net Costs by Major Program, Statement of Changes in Net Position, Statement of Custodial Activity and a combined basis the Statement of Budgetary Resources. These financial statements include the accounts of all funds described in this note by their respective Treasury fund group.

B. Basis of Presentation

These accompanying financial statements have been prepared to report the financial position and results of operations of the U. S. Environmental Protection Agency (the EPA or Agency) as required by the Chief Financial Officers Act of 1990 and the Government Management Reform Act of 1994. The reports have been prepared from the financial system and records of the Agency in accordance with Office of Management and Budget (OMB) Circular No. A-136, *Financial Reporting Requirements*, and the EPA accounting policies, which are summarized in this note.

C. Budgets and Budgetary Accounting

I. General Funds

Congress enacts an annual appropriation for State and Tribal Assistance Grants (STAG), Buildings and Facilities (B&F), and for payments to the Hazardous Substance Superfund to be available until expended, as well as annual appropriations for Science and Technology (S&T), Environmental Programs and Management (EPM) and for the Office of Inspector General (OIG) to be available for two fiscal years. When the appropriations for the General Funds are enacted, Treasury issues a warrant for the respective appropriations. As the Agency disburses obligated amounts, the balance of funds available in the appropriation is reduced at the U.S. Treasury (Treasury).

The EPA provided support for hurricane and wildfire relief via reimbursable agreements with other federal agencies. As of September 30, 2017, reimbursable agreements for Hurricane's Harvey, Irma, Maria, and Nate totaled \$75.4 million. Reimbursable agreements for wildfire response totaled \$51.0 million. These transactions are recorded in the Environmental Programs and Management appropriation.

The EPA has one three-year appropriation account to provide funds to carry out section 3024 of the Solid Waste Disposal Act, including the development, operation, maintenance, and upgrading of the hazardous waste electronic manifest system. The Agency is authorized to establish and collect user fees for this account that will be used for the electronic manifest system.

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) established a Federal credit program administered by the EPA for eligible water and wastewater infrastructure projects. The program is financed from appropriations to cover the estimated long-term cost of the loan. The long-term cost of the loans are defined as the net present value of the estimated cash flows associated with the loans. A permanent indefinite appropriation is available to finance the costs of re-estimated loans that occur in subsequent years after the loans were disbursed. The Agency received a two-year appropriation in fiscal year 2017 to finance the administration and subsidy portions of the program. As of September 30, 2017, no loan amounts have been obligated or disbursed.

Funds transferred from other federal agencies are processed as non-expenditure transfers. Clearing accounts and receipt accounts receive no appropriated funds. Amounts are recorded to the clearing accounts pending further disposition. Amounts recorded to the receipt accounts capture amounts collected for or payable to the Treasury General Fund.

II. Revolving Funds

Funding of the Reregistration and Expedited Processing Fund (FIFRA) and Pesticide Registration Funds (PRIA) is provided by fees collected from industry to offset costs incurred by the Agency in carrying out these programs. Each year, the Agency submits an apportionment request to OMB based on the anticipated collections of industry fees.

Funding of the Working Capital Fund (WCF) is provided by fees collected from other Agency appropriations and other federal agencies to offset costs incurred for providing the Agency administrative support for computer and telecommunication services, financial system services, employee relocation services, background investigations, continuity of operations, and postage.

The Natural Resource Damages Trust Fund (NRDA) was established for funds received for critical damage assessments and restoration of natural resources injured as a result of the Deepwater Horizon oil spill.

III. Special Funds

The Environmental Services Receipts Account Fund obtains fees associated with environmental programs.

IV. Deposit Funds

Deposit accounts receive no appropriated funds. Amounts are recorded to the deposit accounts pending further disposition. Until a determination is made, these are not the EPA's funds. The amounts are reported to the US Treasury through the Government-Wide Treasury Account Symbol Adjusted Trial Balance System

V. Trust Funds

Congress enacts an annual appropriation for the Superfund, Leaking Underground Storage Tank (LUST) and the Inland Oil Spill Programs accounts to remain available until expended. Transfer accounts for the Superfund and LUST Trust Funds have been established for purposes of carrying out the program activities. As the Agency disburses obligated amounts from the transfer account, the Agency draws down monies from the Superfund and LUST Trust Funds held at Treasury to cover the amounts being disbursed. The Agency draws down all the appropriated monies from the Principal Fund of the Oil Spill Liability Trust Fund when Congress enacts the Inland Oil Spill Programs appropriation amount to the EPA's Inland Oil Spill Programs account.

In 2015, the EPA established a receipt account for Superfund special account collections. Special accounts are comprised of reimbursements from other federal agencies, state cost share payments under Superfund State Contracts (SSCs), and settlement proceeds from Potentially Responsible Parties (PRPs) under

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 122(b)(3). This allows the Agency to invest the funds until draw down is needed for special accounts disbursements.

D. Basis of Accounting

Generally Accepted Accounting Principles (GAAP) for federal entities is the standard prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard-setting body for the Federal Government and the American Institute of Certified Public Accountants (AICPA). The financial statements are prepared in accordance with GAAP for federal entities.

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of federal funds posted in accordance with OMB directives and the U.S. Treasury regulations.

EPA uses a modified matching principle since federal entities recognize unfunded (without budgetary resources) liabilities in accordance with FASAB Statement of Federal Financial Accounting Standards (SFFAS) No. 5 "Accounting for Liabilities of the Federal Government."

E. Revenues and Other Financing Sources

The following the EPA policies and procedures to account for inflow of revenue and other financing sources are in accordance with SFFAS No. 7, "Accounting for Revenues and Other Financing Sources."

I. Superfund

The Superfund program receives most of its funding through appropriations that may be used within specific statutory limits for operating and capital expenditures (primarily equipment). Additional financing for the Superfund program is obtained through: reimbursements from other federal agencies, state cost share payments under Superfund State Contracts (SSCs), and settlement proceeds from PRPs under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 122(b)(3) which are placed into Special Accounts. Special Accounts and corresponding interest are classified as mandatory appropriations due to the 'retain and use' authority under CERCLA 122(b) (3). Cost recovery settlements that are not placed in special accounts are deposited in the Superfund Trust Fund.

II. Other Funds

Funds under the Federal Credit Reform Act of 1990 receive program guidance and funding needed to support loan programs through appropriations which may be used within statutory limits for operating and capital expenditures. The WIFIA program receives additional funding to support the awarding, servicing and collections of loans and loan guarantees through application fees collected in the program fund. WIFIA authorizes the EPA to charge fees to recover all or a portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including financial engineering, and legal services, to assist in the underwriting and servicing of Federal credit instruments. The fees are to cover costs to the extent not covered by congressional appropriations.

The FIFRA and PRIA funds receive funding through fees collected for services provided and interest on invested funds. The WCF receives revenue through fees collected for services provided from the Agency program offices. Such revenue is eliminated with related Agency program expenses upon consolidation of the Agency's financial statements.

Appropriated funds are recognized as Other Financing Sources expended when goods and services have been rendered without regard to payment of cash. Other revenues are recognized when earned (i.e., when services have been rendered).

F. Funds with the Treasury

The Agency does not maintain cash in commercial bank accounts. Cash receipts and disbursements are handled by Treasury. The major funds maintained with Treasury are Appropriated Funds, Revolving Funds, Trust Funds, Special Funds, Deposit Funds, and Clearing Accounts. These funds have balances available to pay current liabilities and finance authorized obligations, as applicable.

G. Investments in U.S. Government Securities

Investments in U.S. Government securities are maintained by Treasury and are reported at amortized cost net of unamortized discounts. Discounts are amortized over the term of the investments and reported as interest income. No provision is made for unrealized gains or losses on these securities because, in the majority of cases, they are held to maturity (see Note 4).

H. Notes Receivable

The Agency records notes receivable at their face value and any accrued interest as of the date of receipt.

I. Marketable Securities

The Agency records marketable securities at cost as of the date of receipt. Marketable securities are held by Treasury and reported at their cost value in the financial statements until sold (see Note 4).

J. Accounts Receivable and Interest Receivable

Superfund accounts receivable represent recovery of costs from PRPs as provided under CERCLA as amended by Superfund Amendments and Reauthorization Act of 1986 (SARA). Since there is no assurance that these funds will be recovered, cost recovery expenditures are expensed when incurred (see Note 5). The Agency also records allocations receivable from the Superfund Trust Fund, which are eliminated in the consolidated totals.

The Agency records accounts receivable from PRPs for Superfund site response costs when a consent decree, judgment, administrative order, or settlement is entered. These agreements are generally negotiated after at least some, but not necessarily all, of the site response costs have been incurred. It is the Agency's position that until a consent decree or other form of settlement is obtained, the amount recoverable should not be recorded.

The Agency also records accounts receivable from states for a percentage of Superfund site remedial action costs incurred by the Agency within those states. As agreed to under SSCs, cost sharing arrangements may vary according to whether a site was privately or publicly operated at the time of hazardous substance disposal and whether the Agency response action was removal or remedial. SSC agreements are usually for 10 percent or 50 percent of site remedial action costs, depending on who has the primary responsibility for the site (i.e., publicly or privately owned). States may pay the full amount of their share in advance or incrementally throughout the remedial action process.

The majority of remaining receivables for non-Superfund funds represent penalties and interest receivable for general fund receipt accounts, unbilled intragovernmental reimbursements receivable, and refunds receivable for the STAG appropriation.

K. Advances and Prepayments

Advances and prepayments represent funds paid to other entities both internal and external to the Agency for which a budgetary expenditure has not yet occurred.

L. Appropriated Amounts Held by Treasury

Cash available to the Agency that is not needed immediately for current disbursements of the Superfund and LUST Trust Funds and amounts appropriated from the Superfund Trust Fund to the OIG, remains in the respective Trust Funds managed by Treasury.

M. Property, Plant, and Equipment

The EPA accounts for its personal and real property accounting records in accordance with SFFAS No. 6, "Accounting for Property, Plant and Equipment" as amended. For EPA-held property, the Fixed Assets Subsystem (FAS) maintains the official records and automatically generates depreciation entries monthly based on in-service dates.

A purchase of EPA-held or contractor-held personal property is capitalized if it is valued at \$25 thousand or more and has an estimated useful life of at least two years. For contractor-held property, depreciation is taken on a modified straight-line basis over a period of six years depreciating 10 percent the first and sixth year, and 20 percent in years two through five. Detailed records are maintained and accounted for in contractor systems, not in FAS for contractor-held property. Acquisitions of EPA-held personal property are depreciated using the straight-line method over the specific asset's useful life, ranging from two to 15 years.

Personal property includes capital leases. To be defined as a capital lease, it must, at its inception, have a lease term of two or more years and the lower of the fair value or present value of the projected minimum lease payments must be \$75 thousand or more. Capital leases may also contain real property (therefore considered in the real property category as well), but these need to meet an \$150 thousand capitalization threshold. In addition, the lease must meet one of the following criteria: transfers ownership at the end of the lease to the EPA; contains a bargain purchase option; the lease term is equal to 75 percent or more of the estimated economic service life; or the present value of the projected cash flows of the lease and other minimum lease payments is equal to or exceeds 90 percent of the fair value.

Superfund contract property used as part of the remedy for site-specific response actions is capitalized in accordance with the Agency's capitalization threshold. This property is part of the remedy at the site and eventually becomes part of the site itself. Once the response action has been completed and the remedy implemented, the EPA retains control of the property (i.e., pump and treat facility) for 10 years or less, and transfers its interest in the facility to the respective state for mandatory operation and maintenance – usually 20 years or more. Consistent with the EPA's 10-year retention period, depreciation for this property is based on a 10-year life. However, if any property is transferred to a state in a year or less, this property is charged to expense. If any property is sold prior to the EPA relinquishing interest, the proceeds from the sale of that property shall be applied against contract payments or refunded as required by the Federal Acquisition Regulations. An exception to the accounting of contract property includes equipment purchased by the WCF. This property is retained in FAS, depreciated utilizing the straight-line method based upon the asset's in-service date and useful life and is reflected on the WCF statements.

Real property consists of land, buildings, capital and leasehold improvements and capital leases. In FY 2017, the EPA increased the capitalization threshold for real property, other than land, to \$150 thousand from \$85 thousand for buildings and improvements and \$25 thousand for plumbing, heating, and sanitation projects.

The new threshold will be applied prospectively. Land is capitalized regardless of cost. Buildings are valued at an estimated original cost basis, and land is valued at fair market value if purchased prior to FY 1997. Real property purchased after FY 1996 is valued at actual cost. Depreciation for real property is calculated using the straight-line method over the specific asset's useful life, ranging from 10 to 50 years. Leasehold improvements are amortized over the lesser of their useful life or the unexpired lease term. Additions to property and improvements not meeting the capitalization criteria, expenditures for minor alterations, and repairs and maintenance are expensed when incurred.

Internal use software includes purchased commercial off-the-shelf software, contractor-developed software, and software that was internally developed by Agency employees. In FY 2017, the EPA reviewed its capitalization threshold levels for PP&E. The Agency performed an analysis of the values of software assets, reviewed capitalization of other federal entities, and evaluated the materiality of software account balances. Based on the review, the Agency increased the capitalization threshold from \$250 thousand to \$5 million to better align with major software acquisition investments. The \$5 million threshold will be applied prospectively to software acquisitions and modifications/enhancements placed into service after September 30, 2016. Software assets placed into service prior to October 1, 2016 were capitalized at the \$250 thousand threshold. Internal use software is capitalized at full cost (direct and indirect) and amortized using the straight-line method over its useful life, not exceeding five years.

Internal use software purchased or developed for the working capital fund is capitalized at \$250 thousand and is amortized using the straight-line method over its useful life, not exceeding 5 years

N. Liabilities

Liabilities represent the amount of monies or other resources that are more likely than not to be paid by the Agency as the result of an Agency transaction or event that has already occurred and can be reasonably estimated. However, no liability can be paid by the Agency without an appropriation or other collections authorized for retention. Liabilities for which an appropriation has not been enacted are classified as unfunded liabilities and there is no certainty that the appropriations will be enacted. Liabilities of the Agency arising from other than contracts can be abrogated by the Government acting in its sovereign capacity.

O. Borrowing Payable to the Treasury

Borrowing payable to Treasury results from loans from Treasury to fund the WIFIA direct loans. Periodic principal payments are made to Treasury based on the collections of loans receivable. As of September 30, 2017, no loans have been disbursed.

P. Accrued Unfunded Annual Leave

Annual, sick and other leave is expensed as taken during the fiscal year. Annual leave earned but not taken at the end of the fiscal year is accrued as an unfunded liability. Accrued unfunded annual leave is included in the Balance Sheet as a component of "Payroll and Benefits Payable." Sick leave earned but not taken is not accrued as a liability. It is expensed as it is used.

Q. Retirement Plan

There are two primary retirement systems for federal employees. Employees hired prior to January 1, 1987, may participate in the Civil Service Retirement System (CSRS). On January 1, 1987, the Federal Employees Retirement System (FERS) went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1986, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1987, elected to either join FERS and Social Security or remain in CSRS. A primary feature of

FERS is that it offers a savings plan to which the Agency automatically contributes one percent of pay and matches any employee contributions up to an additional four percent of pay. The Agency also contributes the employer's matching share for Social Security.

With the issuance of SFFAS No. 5, "Accounting for Liabilities of the Federal Government," accounting and reporting standards were established for liabilities relating to the federal employee benefit programs (Retirement, Health Benefits, and Life Insurance). SFFAS No. 5 requires that the employing agencies recognize the cost of pensions and other retirement benefits during their employees' active years of service. SFFAS No. 5 requires that the Office of Personnel Management (OPM), as administrator of the CSRS and FERS, the Federal Employees Health Benefits Program, and the Federal Employees Group Life Insurance Program, provide federal agencies with the actuarial cost factors to compute the liability for each program.

R. Prior Period Adjustments

Prior period adjustments, if any, are made in accordance with SFFAS No. 21, "Reporting Corrections of Errors and Changes in Accounting Principles." Specifically, prior period adjustments will only be made for material prior period errors to: (1) the current period financial statements, and (2) the prior period financial statements presented for comparison. Adjustments related to changes in accounting principles will only be made to the current period financial statements, but not to prior period financial statements presented for comparison.

S. Deepwater Horizon Oil Spill

On April 20, 2010, the Deepwater Horizon drilling rig exploded, releasing large volumes of oil into the Gulf of Mexico. As a responsible party, BP is required by the 1990 Oil Pollution Act to fund the cost of the response and cleanup operations. On September 10, 2012, the President designated the EPA and United States Department of Agriculture as additional trustees for the Natural Resource Damage and Assessment Council for restoration solely conjunction with injury to, destruction of, loss of, or loss of the use of natural resources, including their supporting ecosystems, resulting from the Deepwater Horizon Oil Spill. In FY 2016, the EPA received an advance of \$184 thousand from BP and \$2 million from the U.S. Coast Guard, to participate in addressing injured natural resources and service resulting from the Deepwater Horizon Oil Spill. In FY2017, the EPA returned the reminder of the fund amount of \$440 thousand.

T. Hurricane Sandy

On January 29, 2013, President Obama signed into law the Disaster Relief Appropriations Act (Disaster Relief Act) which provided aid for Hurricane Sandy disaster victims and their communities. Because relief funding of this magnitude often carries additional risk, the Disaster Relief Act required federal agencies supporting Sandy recovery and other disaster-related activities to write and implement and Internal Control Plan to prevent waste, fraud and abuse of these funds. The EPA Hurricane Sandy Internal Control Plan was reviewed and approved by OMB, GAO and the IG in FY 2013.

The EPA received a post sequestration appropriation of \$577 million in Hurricane Sandy funds for the following programs (all amounts are post sequestration):

- a) The Clean Water State Revolving Fund received \$475 million for work on clean water infrastructure projects in New York and New Jersey.
- b) The Drinking Water State Revolving Fund received \$95 million for work on drinking water infrastructure projects in New York and New Jersey.
- c) The Leaking Underground Storage Tanks program received \$5 million for work on projects impacted by Hurricane Sandy.

- d) The Superfund program received \$2 million for work on Superfund sites impacted by Hurricane Sandy.
- e) The EPA also received \$689 thousand to make repairs to the EPA facilities impacted by Hurricane Sandy and conduct additional water quality monitoring.

U. Puerto Rico Insolvency

In February 2016, the Puerto Rico Aqueduct and Sewer Authority (PRASA) requested a restructuring of the Clean Water and Drinking Water SRF debt due to a lack of cash flows and inability to access the municipal bond market. PRASA is the primary utility for Puerto Rico and, at the time of their request, the debt outstanding to the SRFs was \$547 million. Annual debt service to the SRFs is approximately \$37 million per year.

In June 2016, the EPA and the Puerto Rico SRFs agreed to a 1 year forbearance on principal and interest payments. In June 2017, the 1 year forbearance which was to end on June 30, 2017, was extended for an additional 6 months, ending December 30, 2017.

In May, following PRASA's fiscal plan approval by the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) oversight board created by Congress, the EPA and the Puerto Rico SRFs began negotiations with PRASA on restructuring current debt and setting terms for future debt. If a restructuring agreement between the SRFs and PRASA is reached prior to the end of current forbearance, the restructuring agreement will supersede the forbearance. PRASA continues to work with the EPA in its fiduciary and oversight capacity, the Commonwealth SRF Agencies, and private debt holders to restructure its debt obligations owed the Commonwealth SRF Agencies.

V. Use of Estimates

The preparation of financial statements requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities, including environmental and grant liabilities, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Note 2. Fund Balance with Treasury (FBWT)

Fund Balance with Treasury as of September 30, 2017 and September 30, 2016, consists of the following:

	Entity Assets	FY 2017 Non-Entity Assets	Total	Entity Assets	FY 2016 Non-Entity Assets	Total
Fund Balances						
Trust Funds:						
Superfund	\$ 155,259	-	155,259	\$ 113,897	-	113,897
LUST	68,266	-	68,266	52,354	-	52,354
Oil Spill & Misc.	11,129	-	11,129	9,835	-	9,835
Revolving Funds:						
FIFRA/Tolerance	43,614	-	43,614	31,654	-	31,654
Working Capital	101,524	-	101,524	116,853	-	116,853
E-Manifest	5,385	-	5,385	5,230	-	5,230
NRDA	2,729	-	2,729	3,027	-	3,027
Appropriated	7,604,790	-	7,604,790	7,558,470	-	7,558,470
Other Fund Types	467,626	3,785	471,411	444,471	5,335	449,826
Total	\$ 8,460,322	3,785	8,464,107	\$ 8,335,801	5,335	8,341,156

Entity fund balances, except for special fund receipt accounts, are available to pay current liabilities and to finance authorized purchase commitments (see Status of Fund Balances below). Entity Assets for Other Fund Types consist of special purpose funds and special fund receipt accounts, such as the Pesticide Registration funds and the Environmental Services receipt account. The Non-Entity Assets for Other Fund Types consist of clearing accounts and deposit funds, which are either awaiting documentation for the determination of proper disposition or being held by the EPA for other entities.

Status of Fund Balances with Treasury:	<u>FY 2017</u>	<u>FY 2016</u>
Unobligated Amounts in Fund Balance:		
Available for Obligation	\$ 4,154,001	\$ 4,086,786
Unavailable for Obligation	94,641	155,324
Net Receivables from Invested Balances	(4,797,519)	(4,826,953)
Balances in Treasury Trust Fund (Note 36)	15,112	14,268
Obligated Balance not yet Disbursed	8,496,895	8,446,266
Non-Budgetary FBWT	500,977	465,465
Totals	\$ <u>8,464,107</u>	\$ <u>8,341,156</u>

The funds available for obligation may be apportioned by OMB for new obligations at the beginning of the following fiscal year. Funds unavailable for obligation are mostly balances in expired funds, which are available only for adjustments of existing obligations. For FY 2017 and FY 2016 no differences existed between Treasury's accounts and the EPA's statements for fund balances with Treasury.

Note 3. Cash and Other Monetary Assets

As of September 30, 2017, and September 30, 2016, the balance in the imprest fund was \$10 thousand.

Note 4. Investments

As of September 30, 2017, and September 30, 2016, investments related to Superfund and LUST consist of the following:

	<u>Cost</u>	<u>Amortized (Premium) Discount</u>	<u>Interest Receivable</u>	<u>Investments, Net</u>	<u>Market Value</u>
Intragovernmental Securities:					
Non-Marketable FY 2017	\$ 5,329,067	6,455	3,401	5,326,013	5,326,013
Non-Marketable FY 2016	\$ 5,298,243	(7,209)	3,282	5,308,734	5,308,734

CERCLA, as amended by SARA, authorizes the EPA to recover monies to clean up Superfund sites from responsible parties (RPs). Some RPs file for bankruptcy under Title 11 of the U.S. Code. In bankruptcy settlements, the EPA is an unsecured creditor and is entitled to receive a percentage of the assets remaining after secured creditors have been satisfied. Some RPs satisfy their debts by issuing securities of the reorganized company. The Agency does not intend to exercise ownership rights to these securities, and instead will convert them to cash as soon as practicable. All investments in Treasury securities are funds from dedicated collections (see Note 18).

The Federal Government does not set aside assets to pay future benefits or other expenditures associated with funds from dedicated collections. The cash receipts collected from the public for dedicated collection funds are deposited in the U.S. Treasury, which uses the cash for general Government purposes. Treasury securities are issued to the EPA as evidence of its receipts. Treasury securities are an asset to the EPA and a liability to the U.S. Treasury. Because the EPA and the U.S. Treasury are both parts of the Government, these assets and liabilities offset each other from the standpoint of the Government as a whole. For this reason, they do not represent an asset or liability in the U.S. Government-wide financial statements.

Treasury securities provide the EPA with authority to draw upon the U.S. Treasury to make future benefit payments or other expenditures. When the EPA requires redemption of these securities to make expenditures, the Government finances those expenditures out of accumulated cash balances, by raising taxes or other receipts, by borrowing from the public or repaying less debt, or by curtailing other expenditures. This is the same way that the Government finances all other expenditures.

Note 5. Accounts Receivable, Net

The Accounts Receivable as of September 30, 2017 and September 30, 2016 consist of the following:

	<u>FY 2017</u>	<u>FY 2016</u>
Intragovernmental:		
Accounts & Interest Receivable	\$ 19,227	\$ 8,618
Less: Allowance for Un-collectibles	(1,423)	(1,408)
Total	\$ <u>17,804</u>	\$ <u>7,210</u>
Non-Federal:		
Unbilled Accounts Receivable	\$ 206,044	\$ 150,538
Accounts & Interest Receivable	2,413,358	2,395,903
Less: Allowance for Un-collectibles	(2,111,231)	(2,059,627)
Total	\$ <u>508,171</u>	\$ <u>486,814</u>

The Allowance for Uncollectible Accounts is determined both on a specific identification basis, as a result of a case-by-case review of receivables, and on a percentage basis for receivables not specifically identified.

Note 6. Other Assets

Other Assets as of September 30, 2017 and September 30, 2016 consist of the following:

	<u>FY 2017</u>	<u>FY 2016</u>
Intragovernmental:		
Advances to Federal Agencies	\$ 200,703	\$ 206,597
Advances for Postage	119	96
Total	\$ <u>200,822</u>	\$ <u>206,693</u>
Non-Federal:		
Travel Advances	\$ 79	\$ 187
Securities from Debt Settlement	1,863	-
Other Advances	6,196	6,598
Inventory for Sale	103	289
Total	\$ <u>8,241</u>	\$ <u>7,074</u>

Note 7. Loans Receivable, Net

Loans Receivable generally consists of program loans disbursed from obligations made prior to FY 1992 and are presented net of allowances for estimated uncollectible loans, if an allowance was considered necessary. Loans disbursed from obligations made after FY 1991 are governed by the Federal Credit Reform Act, which mandates that the present value of the subsidy costs (i.e., interest rate differentials, interest subsidies, anticipated delinquencies, and defaults) associated with direct loans be recognized as an expense in the year the loan is made. The net loan present value is the gross loan receivable less the subsidy present value. As of September 30, 2017, the EPA has not disbursed any loans for the WIFIA program, but has incurred \$1.79 million in administrative expenses.

Schedule for Reconciling Subsidy Cost Allowance Balances

(Post-1991 Direct Loans)

	<u>FY2017</u>	<u>FY2016</u>
Beginning balance of the subsidy cost allowance	\$ -	\$ 337
Add: subsidy expense for direct loans disbursed during the reporting years by component:	-	-
Interest rate differential costs	-	-
Default costs (net of recoveries)	-	-
Fees and other collections	-	-
Other subsidy costs	-	-
Total of the above subsidy expense components	-	337
Adjustments:		
Loan Modification	-	-
Fees received	-	-
Foreclosed property acquired	-	-
Loans written off	-	-
Subsidy allowance amortization	-	-
Other	-	(337)
End balance of the subsidy cost allowance before reestimates	-	-
Add or subtract subsidy reestimates by component:		
(a) Interest rate reestimate	-	-
(b) Technical/default reestimate	-	-
Total of the above reestimate components	-	-
Ending Balance of the subsidy cost allowance	\$ -	\$ -

EPA has not disbursed Direct Loans since 1993.

Note 8. Accounts Payable and Accrued Liabilities

The Accounts Payable and Accrued Liabilities are current liabilities and consist of the following amounts as of September 30, 2017 and September 30, 2016:

	<u>FY 2017</u>	<u>FY 2016</u>
Intragovernmental:		
Accounts Payable	\$ 4,199	\$ 2,157
Allocation Liability	-	578
Accrued Liabilities	92,836	71,156
Total	\$ <u>97,035</u>	\$ <u>73,891</u>
	<u>FY 2017</u>	<u>FY 2016</u>
Non-Federal:		
Accounts Payable	\$ 58,212	\$ 63,833
Advances Payable	17	19
Interest Payable	5	5
Grant Liabilities	296,157	309,716
Other Accrued Liabilities	169,322	147,483
Total	\$ <u>523,713</u>	\$ <u>521,056</u>

Other Accrued Liabilities are mostly comprised of contractor accruals.

Note 9. General Property, Plant, and Equipment, Net

General property, plant, and equipment (PP&E) consist of software, real property, EPA and contractor-held personal property, and capital leases.

As of September 30, 2017, and September 30, 2016, General PP&E consisted of the following:

	<u>Acquisition Value</u>	<u>FY 2017 Accumulated Depreciation</u>	<u>Net Book Value</u>	<u>Acquisition Value</u>	<u>FY 2016 Accumulated Depreciation</u>	<u>Net Book Value</u>
EPA-Held Equipment	\$ 304,068	(198,897)	105,171	\$ 296,381	(196,484)	99,897
Software (production)	437,334	(364,300)	73,034	733,326	(545,672)	187,654
Software (development)	47,377	-	47,377	267,355	-	267,358
Contractor-Held Equip.	39,759	(24,117)	15,642	37,261	(25,579)	11,682
Land and Buildings	742,932	(269,779)	473,153	721,809	(253,182)	468,627
Capital Leases	24,485	(19,374)	5,111	24,485	(18,500)	5,985
Total	\$ <u>1,595,955</u>	<u>(876,467)</u>	<u>719,488</u>	\$ <u>2,080,617</u>	<u>(1,039,417)</u>	<u>1,041,200</u>

In FY 2015, the Agency initiated an intensive remediation effort to address the material weakness in how the Agency accounts for software. The Agency disclosed a material weakness through its internal control review of software capitalization processes in FY 2014. The material weakness was cited in the, "Audit of the EPA's Fiscal Year's 2014 and 2013 (Restated) Consolidated Financial Statements" report, dated November 17, 2014. The significant decrease in software acquisition value from FY 2016 to FY 2017 is attributable to the Agency's ongoing software material weakness remediation efforts. A key part of this remediation effort has been improving procedures for validating expenditures that require capitalization and improving communications between Agency program offices and the accounting office. In FY 2017, there was an increase in software acquisition values totaling \$46.8 million. There were also decreases totaling \$562.8 million due to software disposals, reclassification of capitalized software costs to expense, and adjustments to asset values, including depreciation. The increase in the Agency's capitalization threshold was effective on October 1, 2016 and did not have a material effect in the change in software asset values.

Note 10. Debt Due to Treasury

As of September 30, 2017, the EPA does not have any debt due to Treasury. In FY 2017, the EPA did not borrow funds to finance the WIFIA Loan Program. The debt to Treasury as of September 30, 2017 and September 30, 2016 is as follows:

All Other Funds	FY 2017			FY 2016		
	Beginning Balance	Net Borrowing	Ending Balance	Beginning Balance	Net Borrowing	Ending Balance
Intragovernmental:						
Debt to Treasury	\$ -	-	-	\$ 34	(34)	-

Note 11. Stewardship Property Plant & Equipment

The Agency acquires title to certain property and property rights under the authorities provided in Section 104(j) CERCLA related to remedial clean-up sites. The property rights are in the form of fee interests (ownership) and easements to allow access to clean-up sites or to restrict usage of remediated sites. The Agency takes title to the land during remediation and transfers it to state or local governments upon the completion of clean-up. A site with "land acquired" may have more than one acquisition property. Sites are not counted as a withdrawal until all acquired properties have been transferred under the terms of 104(j).

As of September 30, 2017, and 2016, the Agency possessed the following land and land rights:

	FY 2017	FY2016
Superfund Sites with Easements:		
Beginning Balance	\$ 38	\$ 36
Additions	1	2
Withdrawals	-	-
Ending Balance	\$ 39	\$ 38
Superfund Sites with Land Acquired:		
Beginning Balance	\$ 34	\$ 35
Additions	1	-
Withdrawals	1	1
Ending Balance	\$ 34	\$ 34

Note 12. Custodial Liability

Custodial Liability represents the amount of net accounts receivable that, when collected, will be deposited to the Treasury General Fund. Included in the custodial liability are amounts for fines and penalties, interest assessments, repayments of loans, and miscellaneous other accounts receivable. As of September 30, 2017, and September 30, 2016, custodial liability is approximately \$22.5 million and \$42.6 million, respectively.

Note 13. Other Liabilities

Other Liabilities consist of the following as of September 30, 2017:

	<u>Covered by Budgetary Resources</u>	<u>Not Covered by Budgetary Resources</u>	<u>Total</u>
Other Liabilities – Intragovernmental:			
Current			
Employer Contributions & Payroll Taxes	\$ 19,119	-	19,119
WCF Advances	1,676	-	1,676
Other Advances	9,235	-	9,235
Advances, Superfund Cash-out	65,807	-	65,807
Deferred Superfund Cash-out	7,853	-	7,853
Liability for Deposit Funds	53	-	53
Non-Current			
Unfunded FECA Liability	-	8,839	8,839
Unfunded Unemployment Liability	-	401	401
Payable to Treasury Judgment Fund	-	22,000	22,000
Total Intragovernmental	\$ 103,743	31,240	134,983
Other Liabilities - Non-Federal:			
Current			
Unearned Advances, Non-Federal	\$ 121,339	-	121,339
Liability for Deposit Funds, Non-Federal	6,441	-	6,441
Non-Current			
Capital Lease Liability	-	17,548	17,548
Total Non-Federal	\$ 127,780	17,548	145,328

Other Liabilities consist of the following as of September 30, 2016:

	<u>Covered by Budgetary Resources</u>	<u>Not Covered by Budgetary Resources</u>	<u>Total</u>
Other Liabilities – Intragovernmental			
Current			
Employer Contributions & Payroll Taxes	\$ 14,879	-	14,879
WCF Advances	2,354	-	2,354
Other Advances	6,709	-	6,709
Advances, Superfund Cash-out	51,259	-	51,259
Deferred Superfund Cash-out	(24,359)	-	(24,359)
Non-Current			
Unfunded FECA Liability	-	9,295	9,295
Unfunded Unemployment Liability	-	276	276
Payable to Treasury Judgment Fund	-	22,000	22,000
Total Intragovernmental	\$ 50,841	31,571	82,412
Other Liabilities - Non-Federal			
Current			
Unearned Advances, Non-Federal	\$ 399,766	-	399,766
Liability for Deposit Funds, Non-Federal	7,200	-	7,200
Non-Current			
Capital Lease Liability	-	18,655	18,655
Total Non-Federal	\$ 409,966	18,655	425,621

In FY 2017, the EPA reclassified liabilities from “Other” to “Superfund Cashout Advances” for presentation purposes, leading to a variance of \$280.2 million between fiscal years 2016 and 2017.

Note 14. Leases

A. Capital Leases:

The value of assets held under Capital Leases as of September 30, 2017 and 2016 are as follows:

	<u>FY 2017</u>	<u>FY 2016</u>
Summary of Assets Under Capital Lease:		
Real Property	\$ 24,485	\$ 24,485
Personal Property	-	-
Total	<u>\$ 24,485</u>	<u>\$ 24,485</u>
Accumulated Amortization	<u>\$ 19,374</u>	<u>\$ 18,500</u>

The EPA has one capital lease for land and buildings housing scientific laboratories. This lease includes a base rental charge and escalation clauses based upon either rising operating costs and/or real estate taxes. The base operating costs are adjusted annually according to escalators in the Consumer Price Indices published by the Bureau of Labor Statistics, U.S. Department of Labor. The EPA's lease will terminate in FY 2025.

Future Payments Due:

Fiscal Year	Capital Leases
2018	\$ 4,215
2019	4,215
2020	4,215
2021	4,215
2022	4,215
After 5 Years	9,835
Total Future Minimum Lease Payments	<u>30,910</u>
Less: Imputed Interest	<u>(13,362)</u>
Net Lease Liability	<u>17,548</u>
Liability not Covered by Budgetary Resources	<u>\$ 17,548</u>

B. Operating Leases:

The GSA provides leased real property (land and buildings) as office space for the EPA employees. GSA charges a Standard Level User Charge that approximates the commercial rental rates for similar properties. The EPA has three direct operating leases for land and buildings housing scientific laboratories and computer facilities. The leases include a base rental charge and escalation clauses based upon either rising operating costs and/or real estate taxes. The base operating costs are adjusted annually according to escalators in the Consumer Price Indices published by the Bureau of Labor Statistics. These charges are expended from the EPM appropriation.

The total minimum future operating lease costs are listed below:

<u>Fiscal Year</u>	<u>Operating Leases, Land and Buildings</u>
2018	\$ 84
2019	53
2020	9
Total Future Minimum Lease Payments	<u>\$ 146</u>

Note 15. FECA Actuarial Liabilities

The Federal Employees' Compensation Act (FECA) provides income and medical cost protection to covered Federal civilian employees injured on the job, employees who have incurred a work-related occupational disease, and beneficiaries of employees whose death is attributable to a job-related injury or occupational disease. Annually, the EPA is allocated the portion of the long term FECA actuarial liability attributable to the entity. The liability is calculated to estimate the expected liability for death, disability, medical and miscellaneous costs for approved compensation cases. The liability amounts and the calculation methodologies are provided by the Department of Labor.

The FECA Actuarial Liability as of September 30, 2017 and 2016 was \$45.2 million and \$45.0 million, respectively. The estimated future costs are recorded as an unfunded liability. The FY 2017 present value of these estimated outflows is calculated using a discount rate of 2.683 percent in the first year, and 2.683 percent in the years thereafter. The estimated future costs are recorded as an unfunded liability.

Note 16. Cashout Advances, Superfund

Cashout advances are funds received by the EPA, a state, or another responsible party under the terms of a settlement agreement (e.g., consent decree) to finance response action costs at a specified Superfund site. Under CERCLA Section 122(b)(3), cash-out funds received by the EPA are placed in site-specific, interest bearing accounts known as special accounts and are used for potential future work at such sites in accordance with the terms of the settlement agreement. Funds placed in special accounts may be disbursed to PRPs, to states that take responsibility for the site, or to other Federal agencies to conduct or finance response actions in lieu of the EPA without further appropriation by Congress. As of September 30, 2017, and September 30, 2016, cash-out advances are \$3.5 billion and \$3.3 billion respectively.

Note 17. Commitments and Contingencies

The EPA may be a party in various administrative proceedings, actions and claims brought by or against it. These include:

- a) Various personnel actions, suits, or claims brought against the Agency by employees and others.
- b) Various contract and assistance program claims brought against the Agency by vendors, grantees and others.
- c) The legal recovery of Superfund costs incurred for pollution cleanup of specific sites, to include the collection of fines and penalties from responsible parties.
- d) Claims against recipients for improperly spent assistance funds which may be settled by a reduction of future EPA funding to the grantee or the provision of additional grantee matching funds.

As of September 30, 2017, and 2016 there were no accrued liabilities for commitments and potential loss contingencies.

A. Gold King Mine

On August 5, 2015, the EPA was conducting an investigation of the Gold King Mine near Silverton, Colorado. While excavating part of the mine, pressurized water began leaking above the mine tunnel, spilling about three million gallons of contaminated water stored behind the collapsed material in Cement Creek, a tributary of the Animas River. In fiscal year 2017 and subsequent fiscal years, the Agency has received and anticipates receiving administrative tort legal claims for compensation from individuals and entities who may have suffered personal injury or property damage from the spill. Subject to the materiality threshold, the Agency will begin to report on such matters when claims are filed and contingent legal liabilities are known. See Section B in regards to cases that have been filed under CERCLA relating to Gold King Mine.

B. Superfund

Under CERCLA Section 106(a), the EPA issues administrative orders that require parties to clean up contaminated sites. CERCLA Section 106(b) allows a party that has complied with such an order to petition the EPA for reimbursement from the fund of its reasonable costs of responding to the order, plus interest. To be eligible for reimbursement, the party must demonstrate either that it was not a liable party under CERCLA Section 107(a) for the response action ordered, or that the Agency's selection of the response action was arbitrary and capricious or otherwise not in accordance with law.

As of September 30, 2017, there is one case pending against the EPA that is reported under Environmental Liabilities below: Bob's Home Service Landfill (\$900 thousand) is reported as a reasonably possible liability.

There are six matters concerning Land O' Lakes (Hudson Oil Refinery Superfund Site), CERCLA 106(b) Petition No. 15-01, CERCLA, New Mexico v. EPA et al., Navajo Nation v. EPA et al., McDaniel et al., and Jan Burgess et al. The amounts are estimated at \$18 million, \$20 million, \$154 million, \$160 million, \$70 million and \$722 million respectively but they are only reasonably possible and the final outcomes are not probable.

C. Judgment Fund

In cases that are paid by the U.S. Treasury Judgment Fund, the EPA must recognize the full cost of a claim regardless of which entity is actually paying the claim. Until these claims are settled or a court judgment is assessed and the Judgment Fund is determined to be the appropriate source for the payment, claims that are probable and estimable must be recognized as an expense and liability of the Agency. For these cases, at the time of settlement or judgment, the liability will be reduced and an imputed financing source recognized. See Interpretation of Federal Financial Accounting Standards No. 2, "Accounting for Treasury Judgment Fund Transactions." The EPA has a \$22 million liability to the Treasury Judgment Fund for a payment made by the Fund to settle a contract dispute claim. As of September 30, 2017, there is no other case pending in the court.

Note 18. Fund from Dedicated Collections (Unaudited)

	Environmental Services	LUST	Superfund	Other Funds from Dedicated Collections	Total Funds from Dedicated Collections
Balance sheet as of September 30, 2017					
Assets					
Fund Balance with Treasury	\$ 444,637	68,265	155,260	85,847	754,009
Investments	-	529,482	4,796,531	-	5,326,013
Accounts Receivable, Net	-	37,647	416,861	26	454,534
Other Assets	-	699	20,558	599	21,856
Total Assets	\$ 444,637	636,093	5,389,210	86,472	6,556,412
Other Liabilities	-	44,841	3,789,256	80,254	3,914,351
Total Liabilities	\$ -	44,841	3,789,256	80,254	3,914,351
Unexpended Appropriation	-	-	(2)	3,699	3,697
Cumulative Results of Operations	444,637	591,252	1,599,956	2,519	2,638,364
Total Liabilities and Net Position	\$ 444,637	636,093	5,389,210	86,472	6,556,412
Statement of Net Cost for the Period Ended September 30, 2017					
Gross Program Costs	\$ -	90,432	1,495,192	67,414	1,653,038
Less: Earned Revenues	-	-	416,036	47,217	463,253
Net Cost of Operations	\$ -	90,432	1,079,156	20,197	1,189,785
Statement of Changes in Net Position for the Period ended September 30, 2017					
Net Position, Beginning of Period	\$ 421,406	546,543	1,608,142	5,350	2,581,441
Non-exchange Revenue- Securities Investments	-	3,048	44,166	230	47,444
Non-exchange Revenue	23,231	225,193	(701)	(1,434)	246,289
Other Budgetary Finance Sources	-	(93,100)	1,014,090	22,257	943,247
Other Financing Sources	-	-	13,413	12	13,245
Net Cost of Operations	-	(90,432)	(1,079,156)	(19,721)	(1,189,785)
Change in Net Position	23,231	44,709	(8,188)	868	60,620
Net Position	\$ 444,637	591,252	1,599,954	6,218	2,642,061

	Environmental Services	LUST	Superfund	Other Funds from Dedicated Collections	Total Funds from Dedicated Collections
Balance sheet as of September 30, 2016					
Assets					
Fund Balance with Treasury	\$ 421,414	52,354	113,898	72,802	660,468
Investments	-	500,831	4,807,903	-	5,308,734
Accounts Receivable, Net	-	52,806	362,806	30	415,642
Other Assets	-	426	79,923	2,882	83,231
Total Assets	\$ 424,414	606,417	5,364,530	75,714	6,468,075
Other Liabilities	9	59,874	3,756,388	70,364	3,886,635
Total Liabilities	\$ 9	59,874	3,756,388	70,364	3,886,635
Unexpended Appropriation	-	-	4	4,076	4,080
Cumulative Results of Operations	421,405	546,543	1,608,138	1,274	2,577,360
Total Liabilities and Net Position	\$ 421,414	606,417	5,364,530	75,714	6,468,075
Statement of Net Cost for the Period Ended September 30, 2016					
Gross Program Costs	\$ -	100,581	1,422,150	69,449	1,592,180
Less: Earned Revenues	5	-	345,981	49,990	395,976
Net Cost of Operations	\$ (5)	100,581	1,076,169	19,459	1,196,204
Statement of Changes in Net Position for the Period ended September 30, 2016					
Net Position, Beginning of Period	\$ 397,831	543,481	1,844,999	6,379	2,792,690
Non-exchange Revenue- Securities Investments	-	960	37,311	32	38,303
Non-exchange Revenue	23,569	202,681	8,490	(3,435)	231,305
Other Budgetary Finance Sources	-	(100,000)	769,602	21,790	691,392
Other Financing Sources	-	2	23,909	43	23,954
Net Cost of Operations	5	(100,581)	(1,076,169)	(19,459)	(1,196,204)
Change in Net Position	\$ 23,574	3,062	(236,857)	(1,029)	(211,250)
Net Position	\$ 421,405	546,543	1,608,142	5,350	2,581,440

A. Funds from Dedicated Collections are as follows

i. Environmental Services Receipt Account:

The Environmental Services Receipt Account authorized by a 1990 act, "To amend the Clean Air Act (P.L. 101-549)," was established for the deposit of fee receipts associated with environmental programs, including radon measurement proficiency ratings and training, motor vehicle engine certifications, and water pollution permits. Receipts in this special fund can only be appropriated to the S&T and EPM appropriations to meet the expenses of the programs that generate the receipts if authorized by Congress in the Agency's appropriations bill.

ii. Leaking Underground Storage Tank (LUST) Trust Fund:

The LUST Trust Fund, was authorized by the SARA as amended by the Omnibus Budget Reconciliation Act of 1990. The LUST appropriation provides funding to respond to releases from leaking underground petroleum tanks. The Agency oversees cleanup and enforcement programs which are implemented by the states. Funds are allocated to the states through cooperative agreements and prevention grants to clean up those sites posing the greatest threat to human health and the environment. Funds are used for grants to non-state entities including Indian tribes under Section 8001 of the Resource Conservation and Recovery Act.

iii. Superfund Trust Fund:

In 1980, the Superfund Trust Fund, was established by CERCLA to provide resources to respond to and clean up hazardous substance emergencies and abandoned, uncontrolled hazardous waste sites. The Superfund Trust Fund financing is shared by federal and state governments as well as industry. The EPA allocates funds from its appropriation to the Department of Justice carry out CERCLA. Risks to public health and the environment at uncontrolled hazardous waste sites qualifying for the Agency's National Priorities List (NPL) are reduced and addressed through a process involving site assessment and analysis and the design and implementation of cleanup remedies. NPL cleanups and removals are conducted and financed by the EPA, private parties, or other Federal agencies. The Superfund Trust Fund includes Treasury's collections, special account receipts from settlement agreements, and investment activity.

B. Other Funds from Dedicated Collections

i. Inland Oil Spill Programs Account:

The Inland Oil Spill Programs Account was authorized by the Oil Pollution Act of 1990 (OPA). Monies are appropriated from the Oil Spill Liability Trust Fund to the EPA's Inland Oil Spill Programs Account each year. The Agency is responsible for directing, monitoring and providing technical assistance for major inland oil spill response activities. This involves setting oil prevention and response standards, initiating enforcement actions for compliance with OPA and Spill Prevention Control and Countermeasure requirements, and directing response actions when appropriate. The Agency carries out research to improve response actions to oil spills including research on the use of remediation techniques such as dispersants and bioremediation. Funding for specific oil spill cleanup actions is provided through the U.S. Coast Guard from the Oil Spill Liability Trust Fund through reimbursable Pollution Removal Funding Agreements (PRFAs) and other inter-agency agreements.

ii. Pesticide Registration Fund:

The Pesticide Registration Fund authorized by a 2004 Act, "Consolidated Appropriations Act (P.L. 108-199)," and reauthorized until September 30, 2019, for the expedited processing of certain registration petitions and associated establishment of tolerances for pesticides to be used in or on food and animal feed. Fees covering these activities, as authorized under the FIFRA Amendments of 1988, are to be paid by industry and deposited into this fund group.

iii. Reregistration and Expedited Processing Fund:

The Revolving Fund, was authorized by the FIFRA of 1972, as amended by the FIFRA Amendments of 1988 and as amended by the Food Quality Protection Act of 1996. Pesticide maintenance fees are paid by industry to offset the costs of pesticide re-registration and reassessment of tolerances for pesticides used in or on food and animal feed, as required by law.

iv. Tolerance Revolving Fund:

The Tolerance Revolving Fund, was authorized in 1963 for the deposit of tolerance fees. Fees are paid by industry for Federal services to set pesticide chemical residue limits in or on food and animal feed. The fees collected prior to January 2, 1997, were accounted for under this fund. Presently collection of these fees is prohibited by statute, enacted in the Consolidated Appropriations Act, 2004 (P.L. 108-199).

Note 19. Intragovernmental Costs and Exchange Revenue

Exchange, or earned revenues on the Statement of Net Cost include income from services provided to Federal agencies and the public, interest revenue (apart from interest earned on trust fund investments), and miscellaneous earned revenue.

	FY2017			FY2016		
	Intragovern -mental	With the Public	Total	Intragovern -mental	With the Public	Total
Env. Programs & Management:						
Program Costs	\$ 924,012	2,093,973	3,017,985	\$ 942,545	1,764,864	2,707,409
Earned Revenue	40,400	10,275	50,675	29,960	1,575	31,535
NET COSTS	883,612	2,083,698	2,967,310	912,585	1,763,289	2,675,874
Leaking Underground Storage Tanks:						
Program Costs	4,437	85,996	90,433	4,820	95,761	100,581
Earned Revenue	-	-	-	-	-	-
NET COSTS	4,437	85,996	90,433	4,820	95,761	100,581
Science & Technology:						
Program Costs	200,358	612,169	812,527	195,740	596,663	792,403
Earned Revenue	7,356	1,274	8,630	7,217	1,084	8,301
NET COSTS	193,002	610,895	803,897	188,523	595,579	784,102
Superfund:						
Program Costs	275,695	1,219,020	1,494,715	65,405	1,147,693	1,213,098
Earned Revenue	26,733	389,103	415,836	43,894	302,087	345,981
NET COSTS	248,962	829,917	1,078,879	21,511	845,606	867,117
State and Tribal Assistance Agreements:						
Program Costs	54,159	3,395,913	3,450,072	57,263	3,927,369	3,984,632
Earned Revenue	-	-	-	-	-	-
NET COSTS	54,159	3,395,913	3,450,072	57,263	3,927,369	3,984,632
Other:						
Program Costs	112,492	257,520	343,721	65,317	313,132	378,449
WCF Eliminations	(211,512)	-	(211,512)	-	-	-
Earned Revenue	231,229	37,583	295,103	22,933	39,638	62,571
WCF Eliminations	(211,290)	-	(211,290)	-	-	-
NET COSTS	(118,959)	219,937	100,978	42,384	273,494	315,878
Total						
Program Costs	1,359,641	7,664,591	9,024,232	1,331,090	7,845,482	9,176,572
Earned Revenue	94,428	438,235	532,663	104,004	344,384	448,388
NET COSTS	\$ 1,265,213	7,226,356	8,491,569	\$ 1,227,086	7,501,098	8,728,184

Intragovernmental costs relate to the source of goods or services not the classification of the related revenue.

Note 20. Cost of Stewardship Land

The EPA had one acquisition of Superfund site with Easements, and one acquisition of Superfund site with Land acquired as of September 30, 2017. The acquisition of Superfund site with Easements contains four 20 year easements at the site, with no acquisition cost. The acquisition of Superfund site with land acquired was valued at \$36 thousand with an option for an additional 12 months (\$18 thousand). The EPA also had a property transfer of ownership via a Quit Claim Deed.

Note 21. Environmental Cleanup Costs

Annually, the EPA is required to disclose its audited estimated future costs associated with:

- a) Clean up of hazardous waste and restoration of the facility when a facility is closed, and
- b) Costs to remediate known environmental contamination resulting from the Agency's operations.

The EPA has 19 sites responsible for clean-up cost incurred under federal, state, and/or local regulations to remove from, contain, or dispose of hazardous material fund located at these facilities.

The EPA is required to report the estimated costs related to:

- a) Clean-up from federal operations resulting in hazardous waste
- b) Accidental damage to nonfederal property caused by federal operations, and
- c) Other damage to federal property caused by federal operations or natural forces.

The key to distinguishing between future clean-up costs versus an environmental liability is to determine whether the event (accident, damage, etc.) has already occurred and whether we can reasonably estimate the cost to remediate the site.

The EPA has elected to recognize the estimated total clean-up cost as a liability and record changes to the estimate in subsequent years.

As of September 30, 2017, the EPA has 1 site that requires clean-up stemming from its activities. The claimants' chances of success are characterized as reasonably possible with costs amounting to \$900 thousand that may be paid out of the Treasury Judgment Fund. For sites that had previously been listed, it was determined by the EPA's Office of General Counsel to discontinue reporting the potential environmental liabilities for the following reasons: (1) although the EPA has been put on notice that it is subject to a contribution claim under CERCLA, no direct demand for compensation has been made to the EPA; (2) any demand against the EPA will be resolved only after the Superfund clean-up work is completed, which may be years in the future; and (3) there was no legal activity on these matters in FY 2017 and FY 2016.

A. Accrued Clean-up Cost

The EPA has 19 sites and is required to fund the environmental clean-up of those sites. As of September 30, 2017, the estimated costs for site clean-up were \$39.5 million unfunded, and \$500 thousand funded, respectively. In 2016 the estimated costs for site clean-up were \$36.1 million unfunded, \$1.1 million funded, respectively. Since the clean-up costs associated with permanent closure were not primarily recovered through user fees, the EPA has elected to recognize the estimated total clean-up cost as a liability and record changes to the estimate in subsequent years.

In FY 2017, the estimate for unfunded clean-up cost increased by \$3.4 million from the FY 2016 estimate. This increase is primarily due to the closure of several EPA buildings in various regions.

Note 22. State Credits

Authorizing statutory language for Superfund and related Federal regulations requires states to enter into Superfund State Contracts (SSC) when the EPA assumes the lead for a remedial action in their state. The SSC defines the state's role in the remedial action and obtains the state's assurance that it will share in the cost of the remedial action. Under Superfund's authorizing statutory language, states will provide the EPA with a 10 percent cost share for remedial action costs incurred at privately owned or operated sites, and at least 50 percent of all response activities (i.e., removal, remedial planning, remedial action, and enforcement) at publicly operated sites. In some cases, states may use EPA-approved credits to reduce all or part of their cost share requirement that would otherwise be borne by the states. The credit is limited to state site-specific expenses the EPA has determined to be reasonable, documented, direct out-of-pocket expenditures of non-Federal funds for remedial action.

Once the EPA has reviewed and approved a state's claim for credit, the state must first apply the credit at the site where it was earned. The state may apply any excess/remaining credit to another site when approved by the EPA. As of September 30, 2017, and September 30, 2016, the total remaining state credits have been estimated at \$22.2 million, and \$22.2 million, respectively.

Note 23. Preauthorized Mixed Funding Agreements

Under Superfund preauthorized mixed funding agreements, PRPs agree to perform response actions at their sites with the understanding that the EPA will reimburse them a certain percentage of their total response action costs. The EPA's authority to enter into mixed funding agreements is provided under CERCLA Section 111(a) (2). Under CERCLA Section 122(b)(1), as amended by SARA, PRPs may assert a claim against the Superfund Trust Fund for a portion of the costs they incurred while conducting a preauthorized response action agreed to under a mixed funding agreement. As of September 30, 2017, the EPA had 4 outstanding preauthorized mixed funding agreements with obligations totaling \$1.4 million. As of September 30, 2016, the EPA had 4 outstanding preauthorized mixed funding agreements with obligations totaling \$4.7 million. A liability is not recognized for these amounts until all work has been performed by the PRP and has been approved by the EPA for payment. Further, the EPA will not disburse any funds under these agreements until the PRP's application, claim and claims adjustment processes have been reviewed and approved by the EPA.

Note 24. Custodial Revenues and Accounts Receivable

	FY 2017	FY 2016
Fines, Penalties and Other Miscellaneous Receipts	\$ <u>1,581,014</u>	\$ <u>98,926</u>
Accounts Receivable for Fines, Penalties and Other Miscellaneous Receipts:		
Accounts Receivable	149,522	195,188
Less: Allowance for Uncollectible Accounts	(124,493)	(150,599)
Total	\$ <u>25,029</u>	\$ <u>44,589</u>

The EPA uses the accrual basis of accounting for the collection of fines, penalties and miscellaneous receipts. Collectability by the EPA of the fines and penalties is based on the respondents' willingness and ability to pay.

In FY 2017, Volkswagen paid a civil penalty to the EPA of \$1.5 billion to resolve allegations that Volkswagen violated the Clean Air Act by selling approximately 590 thousand model year 2009 to 2016 diesel motor vehicles equipped with "defeat devices" that circumvented emissions testing. These funds were transferred to the U.S. Treasury on September 30, 2017.

Note 25. Reconciliation of President's Budget to the Statement of Budgetary Resources

Budgetary resources, obligations incurred and outlays, as presented in the audited FY 2017 Statement of Budgetary Resources, will be reconciled to the amounts included in the FY 2017 Budget of the United States Government when they become available. The Budget of the United States Government with actual numbers for FY 2017 has not yet been published. We expect it will be published by early 2018, and it will be available on the Office of Management and Budget website at <https://www.whitehouse.gov/>

The actual amounts published for the year ended September 30, 2016 are listed immediately below (dollars in millions):

FY 2016	Budgetary Resources	Obligations	Offsetting Receipts	Net Outlays
Statement of Budgetary Resources	\$ 14,154	10,031	886	9,615
Reported in Budget of the U. S. Government	\$ 14,154	10,031	886	9,615

Note 26. Recoveries and Resources Not Available, Statement of Budgetary Resources

Recoveries of Prior Year Obligations, Temporarily Not Available, and Permanently Not Available on the Statement of Budgetary Resources consist of the following amounts for September 30, 2017 and September 30, 2016:

	FY 2017	FY 2016
Recoveries of Prior Year Obligations - Downward adjustments of prior years' obligations	\$ 330,486	\$ 234,361
Temporarily Not Available - Rescinded Authority	(10,555)	(2,855)
Permanently Not Available:		
Payments to Treasury	-	(34)
Rescinded authority	(90,348)	(40,000)
Canceled authority	(46,483)	(13,589)
Total Permanently Not Available	\$ (136,831)	\$ (53,623)

Note 27. Unobligated Balances Available

Unobligated balances are a combination of two lines on the Statement of Budgetary Resources: Apportioned, Unobligated Balances and Unobligated Balances Not Available. Unexpired unobligated balances are available to be apportioned by the OMB for new obligations at the beginning of the following fiscal year. The expired unobligated balances are only available for upward adjustments of existing obligations.

The unobligated balances available consist of the following as of September 30, 2017 and September 30, 2016:

	FY 2017	FY 2016
Unexpired Unobligated Balance	\$ 4,154,577	\$ 4,122,735
Expired Unobligated Balance	92,649	119,316
Total	\$ 4,247,226	\$ 4,242,051

Note 28. Undelivered Orders at the End of the Period

Budgetary resources obligated for undelivered orders at September 30, 2017 and September 30, 2016 were \$8.32 billion and \$8.26 billion, respectively.

Note 29. Offsetting Receipts

Distributed offsetting receipts credited to the general fund, special fund, or trust fund receipt accounts offset gross outlays. For September 30, 2017 and September 30, 2016, the following receipts were generated from these activities:

	FY 2017	FY 2016
Trust Fund Recoveries	\$ (49,379)	\$ 30,833
Special Fund Environmental Service	23,222	23,577
Trust Fund Appropriation	1,135,527	811,684
Miscellaneous Receipt and Clearing Accounts	83	20,359
Total	<u>\$ 1,109,453</u>	<u>\$ 886,453</u>

Note 30. Transfers-In and Out, Statement of Changes in Net Position

A. Appropriation Transfers, In/Out:

For September 30, 2017 and September 30, 2016, the Appropriation Transfers under Budgetary Financing Sources on the Statement of Changes in Net Position are comprised of non-expenditure transfers that affect Unexpended Appropriations for non-invested appropriations. These amounts are included in the Budget Authority, Net Transfers and Prior Year Unobligated Balance, and Net Transfers lines on the Statement of Budgetary Resources. Details of the Appropriation Transfers on the Statement of Changes in Net Position and reconciliation with the Statement of Budgetary Resources follow for September 30, 2017 and September 30, 2016:

Fund/Type of Account	FY 2017	FY 2016
Net Transfers from Invested Funds	\$ 1,195,715	\$ 1,183,737
Transfer from LUST to DOT Highway Trust Fund	93,100	100,000
Transfers to Another Agency	870	981
Allocations Rescinded	6,900	-
Total of Net Transfers on Statement of Budgetary Resources	<u>\$ 1,296,585</u>	<u>\$ 1,284,718</u>

B. Transfers In/Out Without Reimbursement, Budgetary:

For September 30, 2017 and September 30, 2016, Transfers In/Out under Budgetary Financing Sources on the Statement of Changes in Net Position consist of transfers between EPA funds. These transfers affect Cumulative Results of Operations. Details of the transfers-in and transfers-out, expenditure and non-expenditure, follow for September 30, 2017 and September 30, 2016:

Type of Transfer/Funds	FY 2017		FY 2016	
	Fund from Dedicated Collections	Other Funds	Fund from Dedicated Collections	Other Funds
Transfers-in (out) non-expenditure, Earmark to S&T and OIG funds Capital Transfer	\$ (24,274)	24,041	\$ (28,789)	28,789
Transfers-in non-expenditure, Oil Spill	(18,209)	-	(18,209)	-
Transfers-in (out) non-expenditure, Superfund	54,464	-	(43,402)	-
Transfers-in non-expenditure, NRDA	(870)	-	-	-
Transfer-out LUST	100	-	100,000	-
Total Transfer in (out) without Reimbursement, Budgetary	<u>\$ 13,211</u>	<u>24,041</u>	<u>\$ 9,600</u>	<u>28,789</u>

Note 31. Imputed Financing

In accordance with SFFAS No. 5, "Accounting for Liabilities of the Federal Government," Federal agencies must recognize the portion of employees' pensions and other retirement benefits to be paid by the OPM trust funds. These amounts are recorded as imputed costs and imputed financing for each Agency. Each year the OPM provides Federal agencies with cost factors to calculate these imputed costs and financing that apply to the current year. These cost factors are multiplied by the current year's salaries or number of employees, as applicable, to provide an estimate of the imputed financing that the OPM trust funds will provide for each Agency. The estimates for FY 2017 were \$77.3 million. For FY 2016, the estimates were \$116.4 million.

SFFAS No. 4, "Managerial Cost Accounting Standards and Concepts" and SFFAS No. 30, "Inter-Entity Cost Implementation," requires Federal agencies to recognize the costs of goods and services received from other Federal entities that are not fully reimbursed, if material. The EPA estimates imputed costs for inter-entity transactions that are not at full cost and records imputed costs and financing for these unreimbursed costs subject to materiality. The EPA applies its Headquarters General and Administrative indirect cost rate to expenses incurred for inter-entity transactions for which other Federal agencies did not include indirect costs to estimate the amount of unreimbursed (i.e., imputed) costs. For FY 2017 total imputed costs were \$22.2 million.

In addition to the pension and retirement benefits described above, the EPA also records imputed costs and financing for Treasury Judgment Fund payments made on behalf of the Agency. Entries are made in accordance with the Interpretation of Federal Financial Accounting Standards No. 2, "Accounting for Treasury Judgment Fund Transactions." For FY 2017 entries for Judgment Fund payments totaled \$3.6 million. For FY 2016, entries for Judgment Fund payments totaled \$5.9 million.

Note 32. Payroll and Benefits Payable

Payroll and benefits payable to the EPA employees for the years ending September 30, 2017 and September 30, 2016 consist of the following:

	Covered by Budgetary Resources	Not Covered by Budgetary Resources	Total
FY 2017 Payroll & Benefits Payable			
Accrued Funded Payroll & Benefits	\$ 31,095	-	31,095
Withholdings Payable	32,311	-	32,311
Employer Contributions Payable-TSP	638	-	638
Accrued Unfunded Annual Leave	-	141,588	141,588
Total – Current	\$ 64,044	141,588	205,632
FY 2016 Payroll & Benefits Payable			
Accrued Funded Payroll and Benefits	\$ 40,899	-	40,899
Withholdings Payable	19,230	-	19,231
Employer Contributions Payable-TSP	597	-	597
Accrued Unfunded Annual Leave	-	150,071	150,071
Total – Current	\$ 60,726	150,071	210,797

Note 33. Other Adjustments, Statement of Changes in Net Position

The Other Adjustments under Budgetary Financing Sources on the Statement of Changes in Net Position consist of rescissions to appropriated funds and cancellation of funds that expired 7 years earlier. These amounts affect Unexpended Appropriations.

	Other Funds FY 2017	Other Funds FY 2016
Canceled General Authority	123,824	53,501
Total Other Adjustments	\$ 123,824	\$ 53,501

Note 34. Non-Exchange Revenue, Statement of Changes in Net Position

Non-Exchange Revenue, Budgetary Financing Sources, on the Statement of Changes in Net Position as of September 30, 2017 and September 30, 2016 consists of the following Funds from Dedicated Collections items:

	Funds from Dedicated Collections FY 2017	Funds from Dedicated Collections FY 2016
Interest on Trust Fund	\$ 47,445	\$ 38,303
Tax Revenue, Net of Refunds	225,194	202,681
Fines and Penalties Revenue	(701)	8,490
Special Receipt Fund Revenue	21,796	20,134
Total Non-Exchange Revenue	\$ 293,734	\$ 269,608

Note 35. Reconciliation of Net Cost of Operations to Budget

	<u>FY 2017</u>	<u>FY 2016</u>
RESOURCES USED TO FINANCE ACTIVITIES:		
Budgetary Resources Obligated:		
Obligations Incurred	\$ 10,354,618	\$ 10,036,882
Less: Spending Authority from Offsetting Collections and Recoveries	(1,031,789)	(844,542)
Obligations, Net of Offsetting Collections	<u>9,322,829</u>	<u>9,192,340</u>
Less: Offsetting Receipts	(1,109,453)	(886,453)
Net Obligations	<u>8,213,376</u>	<u>8,305,887</u>
Other Resources:		
Imputed Financing Sources	103,093	143,616
Total Resources Used to Finance Activities	<u>\$ 8,316,469</u>	<u>\$ 8,449,503</u>
RESOURCES USED TO FINANCE ITEMS		
NOT PART OF THE NET COST OF OPERATIONS:		
Change in Budgetary Resources Obligated	\$ (66,195)	\$ 307,188
Resources that Fund Prior Periods Expenses	-	-
Budgetary Offsetting Collections and Receipts that Do Not Affect Net Cost of Operations:		
Credit Program Collections Increasing Loan Liabilities for Guarantees or Subsidy Allowances	31	497
Offsetting Receipts Not Affecting Net Cost	72,980	53,730
Resources that Finance Asset Acquisition	(121,053)	(85,805)
Adjustments to Expenditure Transfers that Do Not Affect Net Cost	(8,819)	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>(123,056)</u>	<u>275,610</u>
Total Resources Used to Finance the Net Cost of Operations	<u>\$ 8,193,413</u>	<u>\$ 8,725,113</u>
COMPONENTS OF THE NET COST OF OPERATIONS THAT WILL		
NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD:		
Components Requiring or Generating Resources in Future Periods:		
Increase in Annual Leave Liability	\$ (8,483)	\$ 5,990
Increase in Environmental and Disposal Liability	3,441	(62)
Increase in Unfunded Contingencies	-	(901)
Upward/Downward Re-estimates of Credit Subsidy Expense	-	2,151
Increase in Public Exchange Revenue Receivables	(159,362)	(108,262)
Increase in Workers Compensation Costs	(123)	(1,347)
Other	105	(88)
Total Components of Net Cost of Operations that Require or Generate Resources in Future Periods	<u>(164,422)</u>	<u>(102,519)</u>
Components Not Requiring/Generating Resources:		
Depreciation and Amortization	108,927	91,604
Expenses Not Requiring Budgetary Resources	<u>353,651</u>	<u>13,986</u>
Total Components of Net Cost that Will Not Require or Generate Resources	<u>462,578</u>	<u>105,590</u>
Total Components of Net Cost of Operations That Will Not Require or Generate Resources in the Current Period	<u>298,156</u>	<u>3,071</u>
Net Cost of Operations	<u>\$ 8,491,569</u>	<u>\$ 8,728,184</u>

Note 36. Amounts Held by Treasury (Unaudited)

Amounts held by Treasury for future appropriations consist of amounts held in trusteeship by Treasury in the Superfund and LUST Trust Funds.

A. Superfund

Superfund is supported by general revenues, cost recoveries of funds spent to clean up hazardous waste sites, interest income, and fines and penalties.

The following reflects the Superfund Trust Fund maintained by Treasury as of September 30, 2017 and September 30, 2016. The amounts contained in these notes have been provided by Treasury. As indicated, a portion of the outlays represents amounts received by the EPA's Superfund Trust Fund; such funds are eliminated on consolidation with the Superfund Trust Fund maintained by Treasury.

	<u>EPA</u>	<u>Treasury</u>	<u>Combined</u>
SUPERFUND FY 2017			
Undistributed Balances			
Un-invested Fund Balance	\$ -	1,422	1,422
Total Undisbursed Balance	-	1,422	1,422
Interest Receivable	-	3,387	3,387
Investments, Net	4,704,616	88,528	4,793,144
Total Assets	\$ 4,704,616	93,337	4,797,953
Liabilities & Equity			
Equity	\$ 4,704,616	93,337	4,797,753
Total Liabilities and Equity	\$ 4,704,616	93,337	4,797,753
Receipts			
Cost Recoveries	\$ -	49,379	49,379
Fines & Penalties	-	2,592	2,592
Total Revenue	-	51,971	51,971
Appropriations Received	-	1,038,131	1,038,131
Interest Income	-	44,166	44,166
Total Receipts	\$ -	1,134,268	1,134,268
Outlays			
Transfers to/from EPA, Net	\$ 1,119,857	(1,119,857)	-
Total Outlays	1,119,857	(1,119,857)	-
Net Income	\$ 1,119,857	14,411	1,134,268

In FY 2017, the EPA received an appropriation of \$1.1 billion for Superfund. Treasury's Bureau of Fiscal Service (BFS), the manager of the Superfund Trust Fund assets, records a liability to the EPA for the amount of the appropriation. BFS does this to indicate those trust fund assets that have been assigned for use and, therefore, are not available for appropriation. As of September 30, 2017, and September 30, 2016, the Treasury Trust Fund has a liability to the EPA for previously appropriated funds and special accounts of \$4.8 for both fiscal years.

	<u>EPA</u>	<u>Treasury</u>	<u>Combined</u>
SUPERFUND FY 2016			
Undistributed Balances			
Un-invested Fund Balance	\$ -	439	439
Total Undisbursed Balance	-	439	439
Interest Receivable	-	3,282	3,282
Investments, Net	4,740,927	63,693	4,804,620
Total Assets	\$ 4,740,927	67,414	4,808,341
Liabilities & Equity			
Equity	\$ 4,740,927	67,414	4,808,341
Total Liabilities and Equity	\$ 4,740,927	67,414	4,808,341
Receipts			
Corporate Environmental	\$ -	-	-
Cost Recoveries	-	30,833	30,833
Fines & Penalties	-	7,277	7,277
Total Revenue	-	38,110	38,110
Appropriations Received	-	811,684	811,684
Interest Income	-	37,311	37,311
Total Receipts	\$ -	887,105	887,105
Outlays			
Transfers to/from EPA, Net	\$ 1,120,585	(1,120,585)	-
Total Outlays	1,120,585	(1,120,585)	-
Net Income	\$ 1,120,585	(233,480)	887,105

B. LUST

LUST is supported primarily by a sales tax on motor fuels to clean up LUST waste sites. In FY 2017 and 2016, there were no fund receipts from cost recoveries. The amounts contained in these notes are provided by Treasury. Outlays represent appropriations received by the EPA's LUST Trust Fund; such funds are eliminated on consolidation with the LUST Trust Fund maintained by Treasury.

	<u>EPA</u>	<u>Treasury</u>	<u>Combined</u>
LUST FY 2017			
Undistributed Balances			
Un-invested Fund Balance	\$ -	13,690	13,690
Total Undisbursed Balance	-	13,690	13,690
Interest Receivable	-	14	14
Investments, Net	37,647	491,821	529,468
Total Assets	<u>\$ 37,647</u>	<u>505,525</u>	<u>543,172</u>
Liabilities & Equity			
Equity	37,647	505,525	543,172
Receipts			
Highway TF Tax	\$ -	213,392	213,392
Airport TF Tax	-	11,752	11,752
Inland TF Tax	-	49	49
Total Revenue	-	225,193	225,193
Interest Income	-	3,048	3,048
Total Receipts	<u>\$ -</u>	<u>228,241</u>	<u>228,241</u>
Outlays			
Transfers to/from EPA, Net	\$ 107,000	(107,000)	-
Total Outlays	<u>\$ 107,000</u>	<u>(107,000)</u>	<u>-</u>
Net Income	<u>\$ 107,000</u>	<u>121,241</u>	<u>228,241</u>
	<u>EPA</u>	<u>Treasury</u>	<u>Combined</u>
LUST FY 2016			
Undistributed Balances			
Un-invested Fund Balance	\$ -	13,830	13,830
Total Undisbursed Balance	-	-	-
Interest Receivable	-	-	-
Investments, Net	52,806	448,025	500,831
Total Assets	<u>\$ 52,806</u>	<u>461,855</u>	<u>514,661</u>
Liabilities & Equity			
Equity	52,806	461,855	514,661
Receipts			
Highway TF Tax	\$ -	191,562	191,562
Airport TF Tax	-	11,013	11,013
Inland TF Tax	-	106	106
Total Revenue	-	202,681	202,681
Interest Income	-	961	961
Total Receipts	<u>\$ -</u>	<u>203,642</u>	<u>203,642</u>
Outlays			
Transfers to/from EPA, Net	\$ 191,941	(191,941)	-
Total Outlays	<u>\$ 191,941</u>	<u>(191,941)</u>	<u>-</u>
Net Income	<u>\$ 191,941</u>	<u>11,701</u>	<u>203,642</u>

Note 37. Miscellaneous Receipts Violation, Anti-Deficiency Act Violations and Potential Anti-Deficiency Act Violations

A. Miscellaneous Receipt Act Violation

In 2007 and 2014 The Office of Pesticide Programs established the per-product maintenance fee to purposefully collect fees above the FIFRA § 4 statutory target with the understanding that the EPA could "make up" for shortfalls in prior years' collections. The FIFRA § 4 does not authorize the EPA to purposefully over-collect fees where the statutory target was not met in prior years to reach the target "on average" over a given number of years. As of 2016, the Agency had collected \$1,072 in fees in excess of its statutory authority. In compliance with the Miscellaneous Receipts Act, in May 2016, the EPA deposited the excess fees collected into the General Fund of the Treasury.

B. Anti-Deficiency Act Violations

On February 10, 2017, the EPA reported violations of the Anti-deficiency Act (ADA), as required by 31 U.S.C. § 1351, which occurred in the Hazardous Substance Superfund account in Fiscal Years 1986, 1989, and 1995 in connection with the use of funds from state partners in the Superfund Remedial and Superfund Emergency Response and Removal programs in the total amount of \$463 as required, by OMB circular A-11, Section 145, in writing to the (1) President, (2) President of the Senate, (3) Speaker of the House of Representatives, (4) Comptroller General, and (5) the Director of OMB.

C. Potential Anti-Deficiency Act Violations

In FY 2016 the EPA determined that the Agency had experienced two separate Anti-Deficiency Act Voluntary Services Prohibition violations. 31 U.S.C. § 1342 prohibits the EPA from accepting voluntary services for the United States, or employing personal services not authorized by law, except in the cases of emergency involving the safety of human life or the protection of property.

The first violation occurred from January through April 2014 when the EPA accepted unpaid peer reviews for environmental education grants. At least one of the peer reviewers did not sign a written agreement in advance that states that the services are offered without the expectation of payment, and expressly waives any future pay claims against the government which constitutes a violation of the Voluntary Services Prohibition. The Agency was also unable to determine if there were any more peer reviewers who only had oral agreements.

The second violations occurred in the Honors Law Clerk Program where at least seven post-graduates provided services to the Agency at varying points between 2011 and 2015. Written and signed waivers were unable to be located but are ineffective under 5 U.S.C. §§ 5331-5338 which the principle of equal pay for substantially equal work applies.

In FY 2017, the Agency reviewed whether other voluntary and intern programs might also have had similar issues and included language in its budgetary and supervisory guidance reminding Agency managers to pay close attention to all Federal requirements when accepting voluntary services on behalf of the Agency.

As of the date of the audit report, the EPA is reviewing the proposed transmission of, as required by OMB circular A-11, Section 145, written notifications to the (1) President, (2) President of the Senate, (3) Speaker of the House of Representatives, (4) Comptroller General, and (5) the Director of OMB for Anti-Deficiency Act violation related to the Voluntary Services Provision.

Note 38. Other Information

The EPA received a disclaimer of opinion on audits of the FIFRA and PRIA financial statements for fiscal years 2014 through 2016 issued by the Office of Inspector General (report numbers 16-F-0322, 17-F-0364 and 16-F-0322, 17-F-0365 respectively). A disclaimer of opinion means that OIG was unable to obtain sufficient evidence to determine if the statements were fairly presented and free of material misstatement. The EPA had previously received unmodified, or clean, opinion on these financial statements for FY 2013.

OIG noted a material weakness in that the EPA could not adequately support \$34 million of its FY 2014 FIFRA Fund costs and \$28 million of its FY 2014 PRIA Fund costs. The EPA receives its funding for these programs both from fees paid by pesticide manufacturers and from amounts appropriated by the Congress. In FY 2014, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees.

Therefore, significant payroll amounts paid from appropriations were not charged directly to the FIFRA and PRIA Funds or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the FIFRA and PRIA Funds and other pesticide programs. The OIG noted the same material weaknesses in FY 2015 and FY 2016 for FIFRA and PRIA fund costs.

Required Supplementary Information (Unaudited)

Environmental Protection Agency As of September 30, 2017, and September 30, 2016 (Dollars in Thousands)

Deferred Maintenance

Deferred maintenance is maintenance that was not performed when it should have been, that was scheduled and not performed, or that was delayed for a future period. Maintenance is the act of keeping property, plant, and equipment (PP&E) in acceptable operating condition and includes preventive maintenance, normal repairs, replacement of parts and structural components, and other activities needed to preserve the asset so that it can deliver acceptable performance and achieve its expected life. Maintenance excludes activities aimed at expanding the capacity of an asset or otherwise upgrading it to serve needs different from or significantly greater than those originally intended.

Deferred Maintenance is described as the act of keeping fixed assets in acceptable condition.

Such activities include: Preventive maintenance, replacement of parts, systems, or components, and other activities needed to preserve or maintain the asset.

The deferred maintenance as of Fiscal Year 2017:

	<u>FY2017</u>	<u>FY2016</u>
Asset Category		
Buildings	\$ 143,583	\$ 132,449
EPA Held Equipment	620	370
Vehicles	9	9
Total Deferred Maintenance	<u>\$ 144,212</u>	<u>\$ 132,828</u>

In Fiscal Year 2017, in accordance with SFFAS No. 42, Deferred Maintenance and Repairs: *Amending Statements of Federal Financial Accounting Standards* 6, 14, 29 and 32, agencies are required to:

- Describe their maintenance and repairs policies and how they are applied.
- Discuss how they rank and prioritize maintenance and repair activities among other activities.
- Identify factors considered in determining acceptable condition standards.
- State whether deferred maintenance and repairs relate solely to capitalized or fully depreciated general PP&E.
- Identify PP&E for which management does not measure and/or report deferred maintenance and repairs and the rationale for the exclusion of other than non-capitalized or fully depreciated general PP&E.
- Provide beginning and ending deferred maintenance and repairs balances by
- Explain significant changes from the prior year.

The EPA presents the above Deferred Maintenance and Repairs (DM&R) information by asset category as follows:

Buildings:

Policy	Explanation
Maintenance and repairs policies and how they are applied.	The maintenance and repair policy is to maintain facilities and real property installed equipment to fully meet mission needs at each site. Systems are maintained to function efficiently at full capacity and to meet or exceed life expectancy of buildings and building systems.
How we rank and prioritize maintenance and repair activities among other activities.	Building and facility program projects are scored and ranked individually based on seven weighted factors to determine priority needs. High scoring projects are prioritized above lower scoring projects. The seven factors considered are: health and safety, energy conservation, environmental compliance, program requirements, repair and upkeep, space alteration, and operational urgency. Repair and Improvement (R&I) projects are identified and prioritized on a local basis.
Factors considered in determining acceptable condition standards.	The nine building systems must function at a level that fully meet mission needs. The nine building systems are: structure, roof, exterior components and finish, interior finish, HVAC, electrical, plumbing, conveyance, and specialized program support equipment. Each system is rated from 0 to 5 during facility assessments. Ratings are used to determine facility condition index and estimated deferred maintenance.
State whether DM&R relate solely to capitalized general PP&E and stewardship PP&E or also to non-capitalized or fully depreciated general PP&E.	Facilities assessments and the resulting DM&R estimates are applied to capitalize PP&E only. Full facility assessments using the NASA parametric model are used to determine facilities and systems indices and deferred maintenance estimates.
PP&E for which management does not measure and/or report DM&R and the rationale for the exclusion of other than non-capitalized or fully depreciated general PP&E.	Buildings are not excluded from DM&R estimates.
Explain significant changes from the prior year.	No significant changes.

EPA held Equipment

Policy	Explanation
Maintenance and repairs policies and how they are applied.	Managers of the equipment consider manufacturers recommendations in determining maintenance requirements.
How we rank and prioritize maintenance and repair activities among other activities.	Equipment is maintained based on manufacture's recommendations.
Factors considered in determining acceptable condition standards.	Manufacturer recommendations.
State whether DM&R relate solely to capitalized general PP&E and stewardship PP&E or also to non-capitalized or fully depreciated general PP&E.	DM&R relates to all EPA Held Equipment as determined by individual site managers.
PP&E for which management does not measure and/or report DM&R and the rationale for the exclusion of other than non-capitalized or fully depreciated general PP&E.	Individual site managers determine the need to measure and/or report DM&R based on mission needs.
Explain significant changes from the prior year.	Individual site equipment managers decide on a case-by-case basis the need to maintain equipment.

Vehicles

Policy	Explanation
Maintenance and repairs policies and how they are applied.	Vehicle managers maintain vehicles owned by the EPA in accordance with the recommendations of the manufacturer.
How we rank and prioritize maintenance and repair activities among other activities.	The goal is to maintain the vehicle as built and as recommended by the manufacturer. Repairs and maintenance are also described as <i>system critical</i> or <i>minor</i> . System critical repairs and maintenance are high priority and are immediately taken care of. Minor repairs are lower priority and may be taken care of at a later date (time/scheduling permitting). These are not critical to in-field functionality, but the repairs are needed to maintain the vehicle as built.
Factors considered in determining acceptable condition standards.	The vehicle is inspected to insure that it (the vehicle) and related specialized equipment are in good working order. The criteria being that the vehicle is being maintained as built and as recommended by the manufacturer.
State whether DM&R relate solely to capitalized general PP&E and stewardship PP&E or also to non-capitalized or fully depreciated general PP&E.	All vehicles are capitalized.
PP&E for which management does not measure and/or report DM&R and the rationale for the exclusion of other than non-capitalized or fully depreciated general PP&E.	None.
Explain significant changes from the prior year.	No significant changes.

Stewardship Land

Stewardship land is acquired as contaminated sites in need of remediation and clean-up; thus the quality of the land is far-below the standard for usable and manageable land. Easements on stewardship lands are in good and usable condition but acquired in order to gain access to contaminated sites.

Supplemental Combined Statement of Budgetary Resources

Environmental Protection Agency For the Period Ending September 30, 2017 (Dollars in Thousands)

	Env. Prog. & Mgmt.	Leaking Underground Storage Tank	Science & Tech	Superfund	State & Tribal Ass. Grants	Other	Total
BUDGETARY RESOURCES							
Unobligated Balance, Brought Forward, October 1:	\$ 307,949	3,619	118,502	3,406,772	187,775	217,434	4,242,051
Adjustment to Unobligated Balance	947	2	85	18,933	975	208	21,150
Unobligated balance brought forward, October 1, as adjusted	308,896	3,621	118,587	3,425,705	188,750	217,642	4,263,201
Recoveries of Prior Year Unpaid Obligations	80,569	475	35,967	112,978	62,851	37,646	330,486
Other changes in unobligated balance	(5,722)	-	(3,211)	(233)	-	(33,095)	(42,261)
Unobligated balance from prior year budget authority, net	383,743	4,096	151,343	3,538,450	251,601	222,193	4,551,426
Appropriations (discretionary and mandatory)	2,600,999	185,041	706,473	1,126,420	3,565,963	1,185,370	9,370,266
Spending authority from offsetting collections	78,873	-	20,991	306,306	-	273,982	680,152
Total Budgetary Resources	\$ 3,063,615	189,137	878,807	4,971,176	3,817,564	1,681,545	14,601,844
STATUS OF BUDGETARY RESOURCES							
Obligations incurred	2,761,123	185,494	781,819	1,581,191	3,589,195	1,455,796	10,354,618
Unobligated balance, end of year:							
Apportioned	234,514	3,642	77,358	3,389,986	228,369	218,716	4,152,585
Un-apportioned	-	-	-	-	-	1,992	1,992
Total unobligated balance, end of period	234,514	3,642	77,358	3,389,986	228,369	220,708	4,154,577
Expired unobligated balance, end of year	67,977	-	19,361	-	-	5,041	92,649
Total Status of Budgetary Resources	\$ 3,063,614	189,136	878,808	4,971,177	3,817,564	1,681,545	14,601,844
CHANGE IN OBLIGATED BALANCE							
Unpaid Obligations							
Unpaid Obligations, Brought Forward, October 1 (gross)	\$ 1,232,532	87,242	346,646	1,446,122	5,355,895	226,532	8,694,969
Obligations incurred	2,761,123	185,494	781,819	1,581,191	3,589,195	1,455,796	10,354,618
Outlays (gross)	(2,671,914)	(183,681)	(781,295)	(1,430,019)	(3,453,280)	(1,396,647)	(9,916,836)
Recoveries of prior year unpaid obligations	(80,569)	(475)	(35,967)	(112,978)	(62,851)	(37,646)	(330,486)
Unpaid obligations, end of year (gross)	\$ 1,241,172	88,580	311,203	1,484,316	5,428,959	248,035	8,802,265
Uncollected Payments							
Uncollected customer payments from Federal Sources, brought forward, Oct. 1	\$ (73,077)	-	(16,550)	(10,057)	-	(148,956)	(248,640)
Change in uncollected customer payments from Federal sources	(37,746)	-	4,456	1,004	-	(24,443)	(56,729)
Uncollected customer payments from Federal sources, end of year	\$ (110,823)	-	(12,094)	(9,053)	-	(173,399)	(305,369)
BUDGET AUTHORITY AND OUTLAYS, NET:							
Budget authority, gross (discretionary and mandatory)	\$ 2,679,872	185,041	727,464	1,432,726	3,565,963	1,459,352	10,050,418
Actual offsetting collections (discretionary and mandatory)	(42,074)	(2)	(25,532)	(326,243)	(975)	(249,747)	(644,573)
Change in uncollected customer payments from Federal sources	(37,746)	-	4,456	1,004	-	(24,443)	(56,729)
Budget authority, net (discretionary and mandatory)	\$ 2,600,052	185,039	706,388	1,107,487	3,564,988	1,185,162	9,349,116
Outlays, gross (discretionary and mandatory)	\$ 2,671,914	183,681	781,295	1,430,019	3,453,280	1,396,647	9,916,836
Actual offsetting collections (discretionary and mandatory)	(42,074)	(2)	(25,532)	(326,243)	(975)	(249,747)	(644,573)
Outlays, net (discretionary and mandatory)	2,629,840	183,679	755,763	1,103,776	3,452,305	1,146,900	9,272,263
Distributed offsetting receipts	-	-	-	(1,086,148)	-	(23,305)	(1,109,453)
Agency outlays, net (discretionary and mandatory)	\$ 2,629,840	183,679	755,763	17,628	3,452,305	1,123,595	8,162,810

Required Supplemental Stewardship Information (Unaudited)

Environmental Protection Agency Required Supplemental Stewardship Information (Unaudited) For the Year Ended September 30, 2017 (Dollars in Thousands)

Investment in The Nation's Research and Development:

The EPA's Office of Research and Development provides the crucial underpinnings for the EPA decision-making. Through conducting cutting-edge science and technical analysis, ORD develops sustainable solutions to our environmental problems and employ more innovative and effective approaches to reducing environmental risks. Public and private sector institutions have long been significant contributors to our nation's environment and human health research agenda. The EPA, however, is unique among scientific institutions in this country in combining research, analysis, and the integration of scientific information across the full spectrum of health and ecological issues and across the risk assessment and risk management paradigm. Research enables us to identify the most important sources of risk to human health and the environment, and by so doing, informs our priority-setting, ensures credibility for our policies, and guides our deployment of resources. It gives us the understanding, the framework, and technologies we need to detect, abate, and avoid environmental problems.

Among the Agency's highest priorities are research programs that address: the development and application of alternative techniques for prioritizing chemicals for further testing through computational toxicology; the environmental effects of pollutants on children's health; the potential risks and effects of manufactured nanomaterials on human health and the environment; the impacts of global change and providing information to policy makers to help them adapt to a changing climate; the potential risks of unregulated contaminants in drinking water; the health effects of air pollutants such as particulate matter; the protection of the nation's ecosystems; and the provision of near-term, appropriate, affordable, reliable, tested, and effective technologies and guidance for potential threats to homeland security. The EPA also supports regulatory decision-making with chemical risk assessments.

For FY 2017, the full cost of the Agency's Research and Development activities totaled over \$635 million. Below is a breakout of the expenses (dollars in thousands):¹

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>
Programmatic Expenses	\$ 531,901	\$ 510,911	\$ 535,352	\$ 541,190	\$ 532,153
Allocated Expenses	\$ 78,189	\$ 73,622	\$ 78,028	\$ 82,646	\$ 103,451

See Section II of the PAR for more detailed information on the results of the Agency's investment in research and development.

¹ Allocated Expenses calculated specifically for the Required Supplemental Stewardship Information report and do not represent the overall Agency indirect cost rates.

Investment in The Nation's Infrastructure:

The Agency makes significant investments in the nation's drinking water and clean water infrastructure, primarily through the two SRF programs and the WIFIA program.

WIFIA: The EPA provides through the WIFIA program long-term, low cost supplemental credit assistance under customized terms to creditworthy water and wastewater projects. The WIFIA program directly supports the Agency's goal to ensure waters are clean through improved water infrastructure. The program requires a small appropriation compared to its potential loan volume. For example, the FY17 WIFIA appropriation of \$30 million could spur up to \$5 billion in total infrastructure investment. The WIFIA program is designed to attract private participation, encourage new revenue streams for infrastructure investment, and allow public agencies to get more projects done.

State Revolving Funds: The EPA provides capital, in the form of capitalization grants, to state revolving funds which state governments use to make loans to individuals, businesses, and governmental entities for the construction of wastewater and drinking water treatment infrastructure. When the loans are repaid to the state revolving fund, the collections are used to finance new loans for new construction projects. The capital is reused by the states and is not returned to the Federal Government.

Construction Grants Program: During the 1970s and 1980s, the Construction Grants Program provided more than \$60 billion of direct grants for the construction of public wastewater treatment projects. These projects, which constituted a significant contribution to the nation's water infrastructure, included sewage treatment plants, pumping stations, and collection and intercept sewers, rehabilitation of sewer systems, and the control of combined sewer overflows. The construction grants led to the improvement of water quality in thousands of municipalities nationwide. Congress set 1990 as the last year that funds would be appropriated for Construction Grants. Projects funded in 1990 and prior will continue until completion. After 1990, the EPA shifted the focus of municipal financial assistance from grants to loans that are provided by State Revolving Funds.

The Agency also is appropriated funds to finance the construction of infrastructure outside the Revolving Funds programs. These are reported below as Other Infrastructure Grants.

The Agency's appropriated investments in the nation's Water Infrastructure are outlined below (dollars in thousands):

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>
Construction Grants	\$ 6,944	\$ 1,447	\$ 17,462	\$ 11,344	\$ 8,686
Clean Water SRF	\$ 1,976,537	\$ 1,534,453	\$ 1,715,630	\$ 1,459,820	\$ 1,247,919
Drinking Water SRF	\$ 1,027,613	\$ 1,187,212	\$ 1,268,360	\$ 1,213,201	\$ 994,297
Other Infrastructure Grants	\$ 166,050	\$ 118,706	\$ 96,439	\$ 62,011	\$ 44,916
Allocated Expenses	\$ 524,326	\$ 516,102	\$ 590,595	\$ 529,815	\$ 480,415
WIFIA	\$ 0	\$ 0	\$ 0	\$ 0	\$ 30,000

See the Goal 2 – Clean and Safe Water portion in Section II of the AFR for more detailed information on the results of the Agency's investment in infrastructure.

Human Capital

Agencies are required to report expenses incurred to train the public with the intent of increasing or maintaining the nation's economic productive capacity. Training, public awareness, and research fellowships are components of many of the Agency's programs and are effective in achieving the Agency's mission of protecting public health and the environment, but the focus is on enhancing the nation's environmental, not economic, capacity.

The Agency's expenses related to investments in the Human Capital are outlined below (dollars in thousands):

	<u>FY2013</u>	<u>FY2014</u>	<u>FY2015</u>	<u>FY2016</u>	<u>FY2017</u>
Training and Awareness Grants	\$ 20,769	\$ 23,255	\$ 27,047	\$ 29,116	\$ 22,090
Fellowships	11,157	8,082	6,579	4,630	2,077
Allocated Expenses	4,118	4,226	5,146	5,336	4,073
Total	\$ 36,044	\$ 35,563	\$ 38,772	\$ 39,082	\$ 28,240

Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

NOV 13 2017

OFFICE OF THE
CHIEF FINANCIAL OFFICER

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Audit Report No. OA-FY17-0206, "*Audit of EPA's Fiscal Year 2017 Financial Statements*," dated November 13, 2017

FROM: 
David A. Bloom, Acting Chief Financial Officer
Office of the Chief Financial Officer

TO: Paul C. Curtis, Director
Financial Statements Audits

Thank you for the opportunity to respond to the issues and recommendation in the subject draft audit report. The following is a summary of the agency's overall position, along with its position on the report recommendation. We have provided a corrective action and estimated completion date.

AGENCY'S OVERALL POSITION

The agency concurs with the following recommendation.

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	Require the Compass Financials Project Manager to obtain the Federal Acquisition Certification for Program and Project Managers with the information Technology specialization within the 1-year deadline, as required by the Office of Management and Budget, and take corrective actions if the Project Manager is not able to complete the certification requirements by the deadline.	The Compass Financials Project Manager will obtain the required FAC-P/PM certification within the one-year window.	10/01/2018

To address specific findings in the report, please see the Technical Comments below.

- **EPA's Accounting for Software Continues to Be a Material Weakness**

We appreciate the OIG acknowledging the progress we continue to make in resolving the material weakness in the accounting for software. A key part of this remediation effort has been improving procedures for validating expenditures that require capitalization and the communications between agency program offices and the accounting office. In FY 2017, we met with program officials from all EPA offices with software investments requiring capitalization. As a result, all costs for software expenditures requiring capitalization were validated. We also continued to make expanded use of the fixed asset subsystem within Compass, the EPA's accounting system. By using the fixed asset subsystem, we have improved our documentation of software costs and the accuracy of asset values including depreciation. We plan to close the material weakness in FY 2018.

- **Additional Efforts Needed to Resolve EPA's Cash Differences With Treasury**

The audit report noted major improvements in the agency's efforts to resolve the long-standing cash differences. Of the \$2.2M cash difference in the Washington Finance Center, the offset of \$.9M difference is in a cancelled treasury account symbol. The agency could not immediately clear the difference; but will work with the Department of Treasury on options for clearing differences in cancelled account symbols. The agency will continue research efforts to resolve the remaining differences.

CONTACT INFORMATION

If you have any questions regarding this response, please contact OCFO's Audit Follow-up Coordinator, Bob Trent, at 202-566-0983.

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To: Flynn, Mike[Flynn.Mike@epa.gov]; Vizian, Donna[Vizian.Donna@epa.gov]
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From: OIG News
Sent: Wed 11/15/2017 1:30:33 PM
Subject: OIG Report: "Improved Acquisition Planning Will Help EPA Reduce Hundreds of Millions of Dollars in High-Risk Contracts"
[_epaoig_20171115_18-P-0038_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Improved Acquisition Planning Will Help EPA Reduce Hundreds of Millions of Dollars in High-Risk Contracts* (Report No. 18-P-0038). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Operating efficiently and effectively

Improved Acquisition Planning Will Help EPA Reduce Hundreds of Millions of Dollars in High-Risk Contracts

Report No. 18-P-0038

November 15, 2017



Report Contributors:

Myka Bailey-Sparrow
Eileen Collins
LaTanya Furdge
Madeline Mullen
Michael Petscavage

Abbreviations

CO	Contracting Officer
EPA	U.S. Environmental Protection Agency
EPAAG	EPA's Acquisition Guide
FAR	Federal Acquisition Regulation
FFP	Firm-Fixed-Price
FY	Fiscal Year
GAO	U.S. Government Accountability Office
OAM	Office of Acquisition Management
OARM	Office of Administration and Resources Management
OIG	Office of Inspector General
OMB	Office of Management and Budget

Cover photos: *Left:* Contract file. *Right:* EPA contractor office building. (EPA OIG photos)

Are you aware of fraud, waste or abuse in an EPA program?

EPA Inspector General Hotline

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), conducted this audit to address concerns identified in a previous audit regarding the agency's use of high-risk bridge contracts. Our audit objective was to determine whether the EPA is performing acquisition planning and conducting market research to promote competition and avoid high-risk contracting authorities.

The March 4, 2009, Presidential Memorandum on Government Contracting reports that noncompetitive and cost-reimbursement contracts have been misused across the federal government, resulting in wasted taxpayer resources, poor contractor performance and inadequate accountability. Office of Management and Budget Memorandum M-09-25, *Improving Government Acquisition*, issued on July 29, 2009, requires agencies to take action to reduce the use of high-risk contracting authorities.

This report addresses the following:

- *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

Improved Acquisition Planning Will Help EPA Reduce Hundreds of Millions of Dollars in High-Risk Contracts

What We Found

The EPA's use of high-risk contracts could be reduced if the agency implements additional internal controls to strengthen and improve its acquisition planning process. Low-risk, firm-fixed-price contracts represented only nine percent of the agency's total contract obligations in the second quarter of FY 2017.

Other contracting vehicles pose higher risks to the EPA because they put the burden of cost risk on the government.

Without improving its acquisition planning process, the EPA may continue to spend hundreds of millions of dollars on high-risk contracts that waste taxpayer resources.

We also found that planning difficulties were cited as factors in each of the 10 sole source bridge contracts we sampled, which were awarded to extend existing contracts without full and open competition. The EPA allowed sole source contracts even when there was adequate time to plan and conduct a competitive award process. In addition, two of the sampled contracts did not document acquisition planning as required by EPA policy and federal regulations.

Recommendations and Planned Agency Corrective Actions

We recommend that the Office of Administration and Resources Management take the following actions:

- Require the use of low-risk contracts and only permit high-risk contracts when low-risk contracts are not possible.
- Tighten scrutiny of the contract type selection and require higher level approvals for high-risk contracts.
- Issue guidance or policy to program offices and contracting staff regarding requirements for sole source bridge contracts.
- Permit sole source bridge contracts only when adequate and timely planning has occurred and when serious injury to the EPA's mission would result from a lapse of service.
- Develop a tracking mechanism for bridge contracts.
- Issue a memorandum to remind staff of the importance of including acquisition planning documents as part of the official contract records.

We also recommend that the EPA Deputy Administrator issue an agencywide memorandum to advocate and support Office of Administration and Resources Management initiatives to achieve greater use of contracts that minimize risk and maximize value to the government, including reducing the use of high-risk contracts.

The EPA agreed with the recommendations and provided proposed corrective actions and completion dates. The proposed and completed corrective actions meet the intent of the recommendations.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

November 15, 2017

MEMORANDUM

SUBJECT: Improved Acquisition Planning Will Help EPA Reduce
Hundreds of Millions of Dollars in High-Risk Contracts
Report No. 18-P-0038

FROM: Arthur A. Elkins Jr.

TO: Mike Flynn, Acting Deputy Administrator

Donna Vizian, Acting Assistant Administrator
Office of Administration and Resources Management

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY16-0224. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The Office of the Administrator is responsible for all offices within the EPA, including program offices that are involved in the acquisition process. The Office of Acquisition Management within the EPA's Office of Administration and Resources Management is responsible for planning, awarding and administering contracts. The Office of Acquisition Management works with various program offices to award contracts.

Action Required

In accordance with EPA Manual 2750, your offices provided completed and planned corrective actions and completion dates in response to OIG recommendations. Therefore, a response to the final report is not required. The OIG may make periodic inquiries on your progress in implementing these corrective actions. Please update the EPA's Management Audit Tracking System as you complete planned corrective actions. Should you choose to provide a final response, we will post your response on the OIG's public website, along with our memorandum commenting on your response.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), conducted this audit to address concerns identified in a previous audit regarding the agency's use of high-risk, sole source bridge contracts to continue the work performed under expiring contracts. Our audit objective was to determine whether the EPA is performing acquisition planning and conducting market research to promote competition and avoid high-risk contracting authorities.

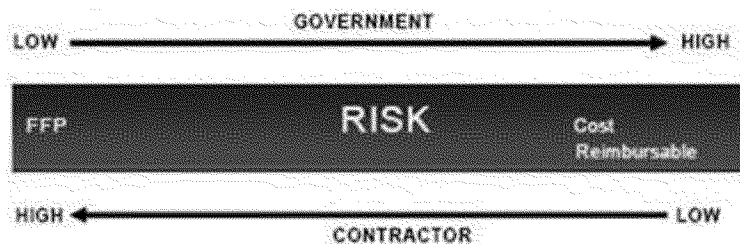
Background

According to the Presidential Memorandum on Government Contracting issued on March 4, 2009, agency Inspectors General, the U.S. Government Accountability Office (GAO) and others have found that noncompetitive and cost-reimbursement contracts were misused, wasted taxpayer resources, and resulted in poor contractor performance and inadequate accountability. The presidential memorandum has been implemented through Office of Management and Budget (OMB) Memorandum M-09-25, *Improving Government Acquisition*, issued on July 29, 2009. The OMB memorandum sets a net \$40-billion-per-year savings target to be achieved through better acquisition and program practices. It also requires agencies to act to reduce the use of high-risk contracting authorities.

High-Risk Contracts

The EPA defines "high risk contracting authorities" as anything other than firm-fixed-price (FFP). Federal Acquisition Regulation (FAR) 16.104(a) states that "a fixed-price contract is ordinarily in the Government's interest." Figure 1 displays how cost-reimbursable contracts—such as cost-plus-fixed-fee and time-and-materials contracts—result in higher risks to the government, while contractors assume more of the risks in FFP contracts.

Figure 1: Risks of FFP versus cost-reimbursable contracts



Source: Department of Defense Contracting Officer Representative Handbook.

Risk factors should be addressed in the acquisition planning process, during which the personnel responsible for an acquisition work together to award a contract in a timely manner and at a reasonable cost.

Bridge Contracts

GAO has defined a “bridge contract” as either an “extension to an existing contract beyond the period of performance” or a “new, short-term contract awarded on a sole source basis to an incumbent contractor to avoid a lapse in service caused by a delay” in the follow-on contract. According to *Competitiveness in the Services Sector*, an Institute for Defense Analyses report dated March 2010, these types of contracts “are put in place when a delay in the acquisition process prevents the award of a competitive contract until after the contract in place is due to terminate.” Intended to be temporary, bridge contracts are awarded as modifications to current contracts or as U.S. General Services Administration orders to continue services until a new contract can be put in place. They can be sole source, which means they are awarded to the incumbent contractor without competition for the best possible price or value.

GAO Report No. GAO-16-15, *Defining and Tracking Bridge Contracts Would Help Agencies Manage Their Use*, issued in October 2015, states that the reviewed agencies “had limited or no insights into their use of bridge contracts.” The report reveals that the agencies did not have “agency-level policies to manage and track their use of bridge contracts” and that their acquisition regulations did not define bridge contracts.

Responsible Offices

The Office of the Administrator is responsible for all offices within the EPA, including program offices that have responsibilities in the acquisition process. The Office of Acquisition Management (OAM) within the EPA’s Office of Administration and Resources Management (OARM) is responsible for planning, awarding and administering contracts. OAM works with various program offices to award contracts.

Scope and Methodology

We conducted this performance audit from July 2016 through August 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To answer our objective, we reviewed the following documentation:

- GAO-14-704G, *Standards for Internal Control in the Federal Government*, September 2014.
- OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, July 15, 2016.
- *EPA's Acquisition Guide* (EPAAG), January 2016.
- EPA's *Contracts Management Manual*, February 26, 2009.
- Presidential Memorandum on Government Contracting, March 4, 2009.
- OMB Memorandum M-09-25, *Improving Government Acquisition*, July 29, 2009.
- FAR 1.704, 4.802, 6.301, 6.302, 7.104, 16.103 and 16.104.

During its preliminary research, the OIG audit team judgmentally selected a sample of 10 bridge and high-risk cost contracts awarded in fiscal years (FYs) 2014, 2015 or 2016. During fieldwork, the team judgmentally selected an additional five sole source contracts awarded in FYs 2016 and 2017 for review. The total sample of 15 contracts—with a combined \$94,386,615 in funding actions—is listed in Table 1.

Table 1: EPA contract sample

#	Contract number	Funding action
1	EP-C-14-012	\$29,703,673
2	EP-C-16-001	29,141,267
3	EP-D-10-096	^a 0
4	EP-D-11-027	^a 0
5	EP-D-11-080	^a 0
6	EP-D-11-081	^a 0
7	EP-D-11-082	^a 0
8	EP-D-16-009	10,643,140
9	EP-G15H-00933	218,617
10	EP-G15H-00935	91,226
11	EP-G103-00003	87,264
12	EP-G159-00280	33,072
13	EP-W-08-036	237,028
14	EP-W-11-003	1,998,046
15	EP-W-15-006	22,233,282
Total		\$94,386,615

Source: OIG judgmental sample.

^a These contract actions did not require funding because obligated funds remained on the contracts.

In our sample of 15 contracts, 11 were bridge contracts. Of the 11 bridge contracts offered by the EPA, one was signed by the EPA and declined by the incumbent contractor; therefore, only 10 of the 11 sampled bridge contracts were finally awarded. In addition, 10 of the 11 bridge contracts were sole source. The remaining four contracts were cost-reimbursement, non-bridge contracts. Of the four non-bridge contracts offered by the EPA, one was protested by a competitor

and canceled. However, throughout this report, when we refer to the contract sample, we refer to all 15 sampled contracts because the EPA went through the planning process for each of the sampled contract actions.

We interviewed management within OAM and obtained contract documents from the EPA's Acquisition System and contract files. After reviewing these contract documents, we interviewed contracting and program staff regarding the sampled contracts. We also reviewed documentation provided by program staff.

Prior Report

In EPA OIG Report No. 13-P-0208, *EPA Should Increase Fixed-Price Contracting for Remedial Actions*, issued on March 28, 2013, we report that the EPA continued to rely on high-risk cost-reimbursement contracts and time-and-materials task orders in the Superfund remedial program. The report makes six recommendations; according to the EPA, all corrective actions were completed by March 11, 2016.

Chapter 2

EPA Needs to Decrease Use of High-Risk Contracts

Low-risk FFP contracts represented only nine percent of the agency's total contract obligations in the second quarter of FY 2017. According to the March 2009 Presidential Memorandum on Government Contracting, excessive reliance on cost-reimbursement contracts produces a risk that taxpayer funds will be spent on wasteful and inefficient contracts that are subject to misuse. The EPA did not sufficiently promote the use of FFP contracts instead of high-risk contracts to limit the government's risk. Because the EPA is not reaping the benefits of cost savings from FFP contracts, the agency is not able to use any saved funds for mission-critical activities.

Memoranda, Regulations and Guidance Promote Low-Risk Contracts

In accordance with the March 2009 Presidential Memorandum on Government Contracting, OMB Memorandum M-09-25, *Improving Government Acquisition*, issued in July 2009, directs agencies to reduce their use of cost-reimbursement, time-and-materials, and labor-hour contracts because these high-risk contracting authorities pose overspending risks.

FAR 16.103(a) explains that agencies should negotiate a contract type and price that result in reasonable contractor risk and give the contractor the most incentive for efficient and economical performance. FAR 16.103(d) requires, among other things, federal agencies to maintain documentation that shows why a contract type was selected; why that contract type will meet the government's need; and how the government will manage the additional risk and burden of a cost-reimbursement contract, if selected. FAR 16.104(d) notes that as requirements recur, "the cost risk should shift to the contractor, and a fixed-price contract should be considered."

EPAAG Section 7.1.1 requires that the agency perform acquisition planning, considering such questions as "What are the risks associated with the contract type?"

EPA Relies on High-Risk Contracts

Even after issuance of the presidential and OMB memoranda, the EPA still relied heavily on high-risk contracts, as shown in Table 2.

Table 2: Number and value of active contracts—second quarter FY 2017

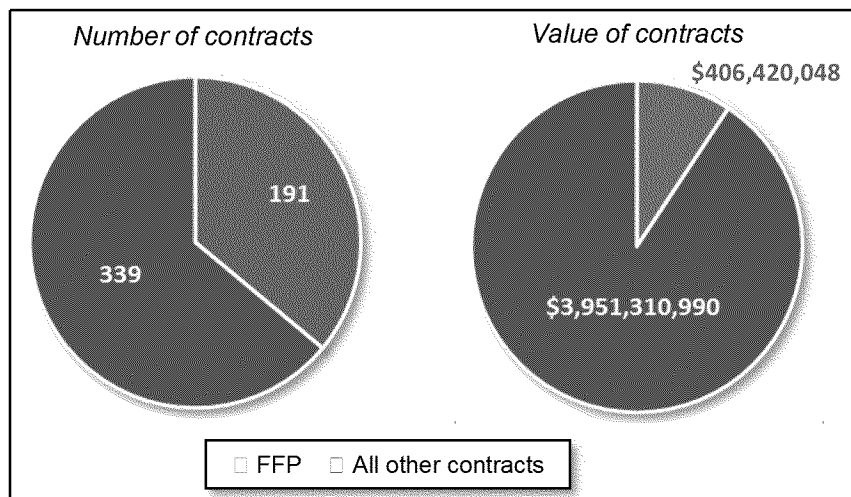
Award type ^a	Number of contracts	Total contract obligation	Maximum potential value
Cost	1	\$3,245,541	\$0
Cost-plus-fixed-fee	79	1,742,810,247	3,629,225,842
Cost-sharing	1	5,638,950	25,959,148
FFP	191	406,420,048	1,195,279,635
Fixed price	3	52,389,017	0
Fixed-price economic price adjustment	11	21,980,540	390,164,523
Fixed-price incentive	2	22,050,733	36,536,448
Indefinite-quantity	180	1,192,481,670	6,210,483,229
Labor-hour	3	6,118,236	27,497,545
Requirements	9	8,785,090	18,310,515
Time-and-materials	50	895,810,966	2,704,114,874
Totals	530	\$4,357,731,038	\$14,237,571,759

Source: OIG analysis of the EPA's second quarter FY 2017 data. The OIG did not independently verify the EPA data.

^a This table does not include blanket purchase agreements, purchase card orders, purchase orders or basic ordering requirements.

In the second quarter of FY 2017, the majority (over 60 percent) of the EPA's contracts were still not FFP, as shown in Figure 2. Furthermore, Figure 2 demonstrates that the dollar value of the EPA's FFP contract obligations represented only nine percent of the agency's total contracting dollars.

Figure 2: EPA contract types and values as of second quarter FY 2017



Source: OIG analysis of EPA data as of second quarter FY 2017. The OIG did not independently verify the EPA data.

Our sample of 15 contracts focused on EPA's high-risk contracts and included 11 bridge contracts. As shown in Table 3, 10 of these 11 bridge contracts (all but EP-G159-00280) were high-risk. The 10 high-risk bridge contracts—totaling \$2,632,181 in contract actions—were also sole source, enabling the incumbent contractors to continue their work without having to compete for a new award;

however, awarding contracts without competition poses higher risks to the government.

Table 3: Sampled bridge contracts

Contract number	Bridge issue date	Contract type
EP-D-10-096	December 21, 2016	Cost-plus-fixed-fee
EP-D-11-027	June 30, 2016	Cost-plus-fixed-fee
EP-D-11-080	January 24, 2017	Indefinite-delivery-indefinite-quantity
EP-D-11-081	Not awarded	Indefinite-delivery-indefinite-quantity
EP-D-11-082	January 19, 2017	Indefinite-delivery-indefinite-quantity
EP-G15H-00933 ^a	May 11, 2016	Time-and-materials
EP-G15H-00935 ^a	June 29, 2016	Time-and-materials
EP-G103-00003 ^a	August 31, 2016	Cost-plus-fixed-fee
EP-G159-00280 ^a	September 21, 2015	FFP
EP-W-08-036	January 14, 2016	Cost-plus-fixed-fee
EP-W-11-003	March 10, 2016	Cost-plus-fixed-fee

Source: OIG analysis of contract files and the EPA's Acquisition System files.

^a These are U.S. General Services Administration contracts.

For the remaining four non-bridge contracts in our sample, the EPA did not issue FFP contracts despite the presidential and OMB memoranda. Two Contracting Officers (COs) said that they did consider a low-risk contract but did not successfully advocate for or obtain one. Table 4 lists the four sampled cost-reimbursement contracts, which represent \$91,721,362 in contract actions.

Table 4: Sampled cost-reimbursement contracts

Contract number	Contract award date	Contract type
EP-C-14-012	May 27, 2014	Cost-plus-fixed-fee
EP-C-16-001	November 23, 2015	Cost-plus-fixed-fee
EP-D-16-009	February 25, 2016	Cost-plus-fixed-fee
EP-W-15-006	April 27, 2015	Cost-plus-fixed-fee

Source: OIG analysis of contract files and the EPA's Acquisition System files.

High-Risk Contract Explanations

Per FAR 16.103(d), COs are required to explain the need for high-risk contract vehicles in the formal written acquisition plans for high-risk contracts. However, we found that the provided explanations regarding why cost-reimbursement contracts were needed or how the government's risk would be managed were not convincing. Instead, the explanations included only general language about uncertainties and the need for services. For example, a contract for wastewater and drinking water support (EP-C-16-001) cites "the level of effort and the scope and nature of the required tasks cannot be specified with sufficient clarity to allow for reasonable cost certainty" as justification for using a high-risk contract type. Yet, the same requirements have been contracted for since 1990; there should be sufficient history to attempt a FFP contract for at least some of the requirements. The contract documentation also recognizes the government's additional risks and burden to manage a cost-reimbursement contract:

The Government understands the risks associated with not using a FFP contract, but has determined that adequate safeguards are in place ... to mitigate the inherent risk in a cost reimbursable contract.

The safeguards identified in the contract documentation include detailed annual invoice reviews and the ability to review contractor accounting systems to address the government's risk of paying more than necessary. However, we were told that the contract's Project Officer only infrequently inquired about high costs and asked for cost justifications. In addition, the contract requirements were renewed via high-risk contracting vehicles for over 25 years. According to the Project Officer, these high-risk vehicles were the only way the agency could make sure the program requirements continued to be covered.

EPA Did Not Emphasize Use of FFP Contracts

The EPA did not sufficiently emphasize low-risk contracts or compliance with requirements to limit the government's risk. After we shared our discussion document with the EPA, the agency agreed that a FFP contract clearly reduces price uncertainty but also stated that a CO must not blindly pursue FFP contracts. The EPA said that COs must consider that, although FFP contracts may reduce the uncertainty of the acquisition in one area, they may increase the uncertainty in other areas.

COs and program staff provided various explanations for the use of high-risk contracts. For example, although the CO ultimately determines the contract type, the program offices provide the requirements for the contract and may press for the continued use of high-risk contracts. In addition, EPA management has not issued specific direction to promote the use of lower risk contracts. One OAM Team Lead indicated that a message from the OAM Director encouraging more FFP contracts would be helpful.

Through interviews with EPA staff, we determined that the EPA did not routinely utilize or consider the use of FFP contracts instead of high-risk contracts for the following reasons:

- The needed work was broad, had uncertainties or was sporadic.
- Staff did not realize that FFP or hybrid contracts were possible, although they often had more than 5 years of history with the contract work being performed.
- Staff were more familiar with the contract types they previously awarded.

We also found that COs and program staff often provided different reasons for not considering FFP contracts, as outlined in Table 5.

Table 5: Reasons why COs and program staff did not consider FFP contracts

COs	Program staff
<ul style="list-style-type: none"> • Despite a long history with a specific contract, program staff could not specify the work that needed to be done. • By the time a contract reached the CO, the decision to award a cost contract was already made. • Program staff were not open to considering a FFP contract. • Program staff would not be happy and would be annoyed with a FFP contract. • COs considered the contract type to be mainly the program staff's decision. 	<ul style="list-style-type: none"> • FFP contracts may be an option but, for research work, it would be difficult. • Program staff were unaware that hybrid contracts were possible. FFP options were not discussed for parts of the contract because program staff did not realize that an entire contract did not have to be FFP. • The CO determined the type of contract to be used. • Although they understood they should consider moving away from high-risk contract types when issuing new contracts, program staff did not realize this movement was a requirement.

Source: OIG interviews of EPA staff.

Risky Contracts Cannot Reap Benefits of Cost Savings

High-risk contracts present the highest risk to federal government dollars. According to OMB Memorandum M-09-25, reliance on contracts other than FFP provides the contractor with little incentive to control costs. However, the EPA has not emphasized, as required by the FAR, the importance of negotiating a contract type and price “that will result in reasonable contractor risk and provide the contractor with the greatest incentive for efficient and economical performance.” The fact that cost-reimbursement contracts require more oversight and monitoring, per FAR 16.103(d)(1), also means that there is an additional oversight burden for the government. As a result, the EPA is not reaping the benefits of cost savings from FFP contracting. The high-risk contract decisions that we sampled—with a combined value of millions of dollars—did not support that higher risk contract vehicles were necessary.

EPA Recognizes Risk and Is Taking Steps to Address

The EPA has recognized that acquisition planning should be improved. The Federal Managers’ Financial Integrity Act requires that federal agencies report annually on the soundness of their internal controls and financial systems. Each EPA program office submits a Federal Managers’ Financial Integrity Act Assurance Letter each year, which OARM then summarizes and submits to the President and Congress along with a risk assessment. In its FY 2016 letter, OARM reported that its internal controls were adequate to reasonably ensure protection against fraud, waste, abuse and mismanagement. However, the attached risk assessment recognized that the EPA had delays in contract awards and was not maximizing the use of FFP contracts.

Furthermore, OAM decided in 2017 that the “Determination and Findings” form for time-and-materials contracts—which, per FAR 1.704, must provide “enough facts ... to clearly and convincingly justify the specific determination made” (e.g., statements of fact or rationale for the contract type selected)—must be approved and signed at a level higher than the current approval delegation. This decision means that only OAM Division Directors or higher have signatory authority for these forms. Similar treatment is under consideration for all cost-reimbursement type contracts and should provide additional oversight over high-risk contracts.

In its written response to our discussion document, OAM recognized that contract type determination write-ups for the use of high-risk contracts must be more substantive, detailed and robust, as well as provide technical details that fully support the decision to award a contract that is not FFP. To further address issues raised in this audit, the OAM Office Director identified a training and course development plan that includes training on contract types. According to the EPA, this plan is nearing completion and is expected to be rolled out in FY 2018. In addition, the EPA reported that OAM is re-engineering business processes and will include best practices and lessons learned from offices that have successfully converted program requirements to another, lower-risk contract type.

Recommendations

We recommend that the Assistant Administrator for Administration and Resources Management:

1. Update policy and procedures to require the use of low-risk contracts, and only permit high-risk contracts when low-risk contracts are not possible.
2. Implement controls to tighten scrutiny of the contract type selection, and require higher level approvals for all high-risk contracts.

We recommend that the EPA Deputy Administrator:

3. Issue an agencywide memorandum to advocate and support Office of Administration and Resources Management initiatives to achieve greater use of contracts that minimize risk and maximize value to the government, including reducing the use of high-risk contracts.

Agency Response and OIG Evaluation

The EPA agreed with Recommendations 1 through 3 and provided planned corrective actions with completion dates. According to the agency’s response, OAM will complete the following actions for Recommendations 1 and 2:

- **Recommendation 1.** Review acquisition policy and procedures to ensure that contract type selection is emphasized and “that the use and discussion of firm-fixed price contracts is given serious consideration” during the planning phase. Communicate and collaborate with stakeholders to assure the clarity of policy and procedure updates and that implementation of these updates “is supportive of program goals and objectives.” The OIG confirmed with the EPA that relevant “policy and procedures would be updated and low-risk contracts would be required unless it is not possible.” The estimated completion date is March 31, 2018.
- **Recommendation 2.** Enhance oversight and enforcement of FAR and EPAAG procedures “that require documentation of the rationale for contract type selection” when it is not FFP, including determination and findings preparation and approval for time-and-materials and labor-hour contracts. Exercise “greater scrutiny of contract type discussions, decisions and supporting documentation” based on an “analysis of current needs, issues, and vulnerabilities.” The estimated completion date is March 31, 2018.

In response to Recommendation 3, the acting Deputy Administrator will issue an agencywide memorandum informing staff of OARM initiatives and “emphasizing the importance of participation and compliance.” The estimated completion date is December 31, 2017.

The EPA’s planned corrective actions meet the intent of Recommendations 1 through 3, which are therefore resolved with corrective actions pending.

Chapter 3

EPA Needs to Do More to Avoid Sole Source Bridge Contracts

Planning difficulties were cited as factors in each of the 10 sole source bridge contracts that we sampled, per the written justifications for conducting other than a full and open competition included in the contract files. According to the FAR, however, a lack of advance planning does not justify contracting without full and open competition. Furthermore, per OMB Memorandum M-09-25, noncompetitive contracts present a price risk to the government. The EPA has not sufficiently emphasized the requirement to reduce spending on sole source contracts and has allowed sole source contracts even when there was adequate time to plan for a competitive award process. Also, the EPA does not define or identify bridge contracts, and the agency does not have policies to manage and track their use. When noncompetitive contracts are used, the agency risks overpaying for goods and services. With limited insight into the extent and volume of bridge contracts, the EPA cannot identify, analyze and reduce the risks associated with achieving the contract objectives.

Federal Directives, Guidance and Standards Promote Competitive Awards , Require Risk Management

Federal regulations, memoranda and EPA policy emphasize the benefits of and need for a competitive award process. The Presidential Memorandum on Government Contracting notes that the risk of excessive reliance on sole source contracts is that taxpayer funds will be spent on wasteful and inefficient contracts that are subject to misuse. OMB Memorandum M-09-25 specifies that “non-competitive contracts present a risk because there is not a direct market mechanism for setting the contract price.” FAR 6.301(c)(1) states, “Contracting without providing for full and open competition shall not be justified on the basis of ... [a] lack of advance planning by the requiring activity.” Also, FAR 7.104(b) states, “Requirements and logistics personnel should avoid issuing requirements on an urgent basis ... since it generally restricts competition and increases prices.”

In addition, Section 7.1.1 of the EPAAG underscores that, without proper acquisition planning, the EPA may face harmful consequences:

... the result may be poorly defined requirements, lack of competition, and ultimately, a detrimental effect on the agency’s ability to receive mission critical goods and services.

There are some exceptions to the competitive award process. FAR 6.302 outlines circumstances that permit other than full and open competition:

- FAR 6.302-1—Only one responsible source and no other supplies or services will satisfy agency requirements.
- FAR 6.302-2—Unusual and compelling urgency (i.e., when the agency's need for the supplies or services is of such an unusual and compelling urgency that the government would be seriously injured).
- FAR 6.302-3—Industrial mobilization; engineering, developmental, or research capability; or expert services.
- FAR 6.302-4—International agreement.
- FAR 6.302-5—Authorized or required by statute.
- FAR 6.302-6—National security.
- FAR 6.302-7—Public interest.

Government internal control standards describe management responsibilities regarding risk assessment and addressing risk. The GAO's *Standards for Internal Control in the Federal Government* requires management to use quality information to achieve objectives and address risks. Also, GAO states that management should identify, analyze and respond to risks related to achieving its objectives. OMB Circular A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, notes management's responsibility to continuously monitor, assess and improve internal control effectiveness. Further, OMB states that management should identify and correct control deficiencies.

Planning Difficulties Cited as Factors in Sole Source Bridge Contracts

Planning difficulties were cited as factors in each of the 10 sole source bridge contracts we sampled. Within the documentation for these contracts, the EPA provided written justifications that emphasized the importance of extending these contracts to fill critical needs. Although FAR 7.104(b) cautions against issuing contract requirements on an urgent basis, the EPA did not consider that better planning could have reduced the potential need for last-minute, sole source bridge contracts. Table 6 lists the EPA's written explanations regarding the necessity of these bridge contracts, which totaled \$2,632,181.

Table 6: Sole source contract explanations

Contract number	Explanation excerpts
EP-D-10-096	"Using another contractor would result in a substantial duplication of effort. In addition to the time/expertise considerations discussed ... a substantial amount of resources would be required for another contractor to acquire a level of knowledge and expertise equivalent to that of" the current contractor.
EP-D-11-027	"The Government is not stating that there are no other contractors who can support this Onsite Technical Support Services requirement ... no other contractor could transition this workload ... and efficiently continue performance without potential reduced services, increased costs, and unnecessary risks to the Government."
EP-D-11-080	"... considering the short period of performance contemplated within this extension that no other contractor could transition this workload ... and efficiently continue performance without potential reduced services, increased costs, and unnecessary risks to the Government."
EP-D-11-081	"... it is not reasonable to believe that a contractor could take over and provide the High Throughput Screening services required ... of this size, scope and complexity at this time. Therefore, a sole source extension to the current contractor is the only responsible way to meet this essential Government requirement."
EP-D-11-082	"The purpose of this document is to justify the need to extend the period of performance an additional six (6) months to prevent a lapse in services that are critical to the continuity of scientific research ... while the new contract is negotiated and awarded."
EP-G15H-00933	"This interim bridge contract cannot be competed or awarded to another contractor because" the current contractor "is most familiar with a large amount of varied complex components." The current contractor "will not burden ... with start-up cost that another vendor would encounter, nor ... incur the initial learning curve."
EP-G15H-00935	"While other contractors, in the long-term, may be able to develop that specialized knowledge for the planned and on-going projects, it has been determined that it is not feasible in the short-term. Additionally, because the tasks under the current task order have begun and are in-progress, the interim bridge contract is a natural and vital product of these existing tasks."
EP-G103-00003	"The services required ... provide a logical continuation of services currently being performed by the incumbent, ... which are necessary to protect property of the U. S. Government and to ensure the occupants of this federally owned facility have a safe and properly maintained environment to work in."
EP-W-08-036	"This contractor is the only responsible contractor that can fulfill this requirement at this time because of the program office's ongoing need for preparedness in the event of an emergency situation."
EP-W-11-003	"... the only contractor that has the requisite expertise and qualifications to perform the work within budget and so that there is no gap in service. Additional costs, which would not be recovered through competition, would be necessary if this support was transitioned to another contractor and would cause significant delays in completing the required tasks identified."

Source: OIG analysis of contract files and the EPA's Acquisition System files.

The justifications generally explain that there is only one source ready to do the work immediately, but they do not explain how the government would be seriously injured if the sole source contract was not approved.¹ Therefore, the explanations do not meet the intent of the FAR, particularly when lack of sufficient planning was noted as a reason why other than full and open competition was needed in all 10 sole source bridge contracts sampled. For example, the documentation for one of the contracts included the following justification:

No other contractor could perform these tasks without a significant delay in service, a steep learning curve and potential duplication of effort and a waste of Government resources.

This explanation does not meet the sole source criteria that there be only one responsible source and that no other supplies or services will satisfy agency requirements. Instead, it focuses on a steep learning curve. It also does not explain how the government would be seriously injured if a sole source contract was not used.

EPA Does Not Track Bridge Contracts

Although the EPA uses bridge contracts, the agency does not have guidance or policy to define, identify, manage or track the use of bridge contracts. As a result, there is no readily identifiable way to determine how many bridge contracts the EPA has awarded. For example, in response to our audit request for a list of awarded bridge contracts, the EPA had to perform a word search of contract data for “bridge.”

EPA Did Not Emphasize Requirements

The EPA did not sufficiently emphasize the requirement to reduce spending on sole source contracts and allowed sole source bridge contracts to be awarded, even when there was adequate time to plan and conduct a competitive award process. Although planning is supposed to begin years in advance, some contract award activities were delayed. One CO we interviewed indicated that, during the preceding 2 years, the use of sole source contracts increased because there was not enough time for the full competitive process. Another CO found that the contracting office was so far behind schedule that a bridge contract became necessary. In another instance, an OAM manager explained that a bridge contract was necessary due to delays in acquisition planning. Yet another OAM manager explained that delays in obtaining a statement of work from the program office necessitated a bridge contract. These explanations relate to a lack of planning. The FAR states that a lack of advance planning does not justify contracting without full and open competition.

¹ Neither the FAR nor the EPAAG define “serious injury.”

During discussions with OAM, we asked whether the EPA had considered the findings in the GAO report, *Defining and Tracking Bridge Contracts Would Help Agencies Manage Their Use*, which highlights the need for federal agencies to track bridge contracts. OAM explained that they were aware of the GAO report but had not considered tracking or addressing bridge contracts prior to our discussion.

Lack of Competition Creates Risk That Government Will Overpay

Inadequate acquisition planning results in noncompetitive contracts. The use of noncompetitive contracts frequently or for prolonged periods of time creates a risk that the government will overpay for goods and services. Also, EPA policy notes that a lack of acquisition planning may result in a detrimental effect on the agency's ability to receive mission-critical goods and services. We found that the use of sole source contracts totaling millions of dollars could potentially have been avoided if the EPA permitted such contracts only when adequate and timely planning had occurred.

Furthermore, since the EPA does not define, identify or track bridge contracts, there is limited insight into how often the agency uses bridge contracts and whether the agency circumvents the FAR. The EPA's lack of policies on the use of bridge contracts means that the EPA cannot identify and analyze risks, nor can the agency make management decisions regarding bridge contracts.

EPA Is Taking Steps to Address Risk

An OAM manager explained that the EPA's Acquisition System solicitation module would soon be modified to add special coding to track bridge contracts. In its written response to our discussion document, the EPA confirmed that this tracking mechanism will help address issues raised in this audit. In addition, the agency stated that the Office of Federal Procurement Policy may develop a regulatory definition for "bridge contracts." The OIG asserts that, meanwhile, the EPA can develop and use an interim definition. Also, the OAM Office Director identified a training and course development plan that will include training on the need for and use of bridge contracts, as well as provide examples of "good" and "weak" justifications for other than full and open competition.

Recommendations

We recommend that the Assistant Administrator for Administration and Resources Management:

4. Issue guidance or policy to program offices and contracting staff regarding requirements for sole source bridge contracts, including a definition of

“bridge contracts” and “serious injury,” the authorization for use, and the impact on competition and agency goals.

5. Permit sole source bridge contracts only when adequate and timely planning has occurred and serious injury to the EPA’s mission would result from a lapse of service, and require deputy-level approval for sole source bridge contracts over a specific dollar threshold.
6. Develop a tracking mechanism for bridge contracts.

Agency Response and OIG Evaluation

The EPA agreed with Recommendations 4 through 6 and provided planned corrective actions with completion dates. In response to Recommendations 4 through 6, OAM will complete the following actions:

- **Recommendation 4.** Develop and issue guidance to program and contracting staff regarding sole source bridge contract requirements, including the definition of “bridge contracts and ‘serious injury’, the authorization for use, and the impact on competition and agency goals.” The estimated completion date is January 31, 2018.
- **Recommendation 5.** Enhance oversight and enforcement of FAR and EPAAG acquisition planning processes and procedures, and “assure that senior acquisition personnel and leadership ... reach out to their counterparts” to hold acquisition planners accountable for timely performance of required planning. Exercise “greater scrutiny of the acquisition planning process, including contract type discussions, decisions, and the quality and substance of supporting documentation” for sole source bridge contracts “through higher level review and approvals.” Base reviews and approvals on an “informed analysis of the current needs, issues, and vulnerabilities in this area.” The OIG confirmed with the EPA that “OAM will permit sole source bridge contracts only when it is evident that adequate and timely planning has occurred and serious injury to the EPA’s mission would result from a lapse of service; and require deputy-level approval for sole source bridge contracts over a specific dollar threshold.” The estimated completion date is March 31, 2018.
- **Recommendation 6.** Develop a bridge tracking mechanism in the EPA’s Acquisition System no later than September 30, 2017. Implementation of reporting on bridge contracts using this new tracking mechanism will be deferred until the agency’s definitions of “bridge contracts” and “serious injury” are finalized. The estimated completion date is February 28, 2018.

The planned corrective actions meet the intent of Recommendations 4 through 6, which are resolved with corrective actions pending.

Chapter 4

EPA Needs to Improve Compliance With Acquisition Planning Requirements

Two of the 15 contracts we sampled did not have documentation regarding acquisition planning, as required by EPA policy. As previously noted in this report, the EPAAG states that proper acquisition planning is critical to avoid “poorly defined requirements, lack of competition, and ultimately, a detrimental effect on the agency’s ability to receive mission critical goods and services.” The EPA’s inattention to thorough and timely acquisition planning may have a detrimental effect on the agency’s ability to receive mission-critical goods and services at the best price.

EPA Guidance, Federal Regulation Require Acquisition Planning

Paragraph 7.1.1.2 of the EPAAG requires acquisition planning for all acquisitions. The EPAAG defines “acquisition planning” as the process by which all personnel responsible for an acquisition coordinate to fulfill agency needs in a timely manner and at a reasonable cost. Preceding the publication of the EPAAG in January 2016, the EPA’s February 2009 *Contracts Management Manual* provided the following definition in Section 7.1.2:

Acquisition planning means that the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling agency needs in a timely manner.

In addition, FAR 4.802(a) specifies that a contract file should generally consist of, among other things, documentation of the basis for the acquisition and award, the assignment of contract administration, and any subsequent contracting office actions. The EPAAG also requires that a copy of the final procurement plan and market research be documented in the official contract file.

Acquisition Planning Was Not Always Documented

Although the majority of the 15 contracts we sampled had documented acquisition planning, two contract files (EP-W-08-036 and EP-W-11-003) did not include documentation of those efforts, as required. For those two contracts, the COs were not able to locate the acquisition planning documents.

Although EPA policy provides guidance on acquisition planning and reasonable lead times, OAM management said that staffing and resource issues have had a negative impact. In response to our audit request for documentation, one CO could not locate pre-award acquisition planning documents due to staff changes

and did not know whether these documents were drafted in the first place. The CO for the other contract stated that the contracting office had resource issues, and the written acquisition plan required by the FAR was not in the contract's file. Inattention to thorough and timely documentation of acquisition planning potentially results in a detrimental effect because the suitability and rationale for high-risk contracts are not supported for audits or management review.

EPA Recognizes Risk and Is Taking Steps to Address

In its written response to our discussion document, the EPA noted that increased attention to thorough and timely acquisition planning offers a strong foundation for mission-critical goods and services contracts. Also, to address issues raised in this audit, the OAM Office Director identified a training and course development plan that includes acquisition planning training.

Recommendation

We recommend that the Assistant Administrator for Administration and Resources Management:

7. Issue a memorandum reminding staff of the importance of including acquisition planning documents as part of the official contract records.

Agency Response and OIG Evaluation

The EPA agreed with Recommendation 7 and on September 29, 2017, issued a "Flash Notice" email reminding COs to include all required documentation in the contract files. It also noted the importance of improving the documentation of contract type selections. This corrective action meets the intent of Recommendation 7, which is complete.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	10	Update policy and procedures to require the use of low-risk contracts, and only permit high-risk contracts when low-risk contracts are not possible.	R	Assistant Administrator for Administration and Resources Management	3/31/18	
2	10	Implement controls to tighten scrutiny of the contract type selection, and require higher level approvals for all high-risk contracts.	R	Assistant Administrator for Administration and Resources Management	3/31/18	
3	10	Issue an agencywide memorandum to advocate and support Office of Administration and Resources Management initiatives to achieve greater use of contracts that minimize risk and maximize value to the government, including reducing the use of high-risk contracts.	R	Deputy Administrator	12/31/17	
4	16	Issue guidance or policy to program offices and contracting staff regarding requirements for sole source bridge contracts, including a definition of "bridge contracts" and "serious injury," the authorization for use, and the impact on competition and agency goals.	R	Assistant Administrator for Administration and Resources Management	1/31/18	
5	17	Permit sole source bridge contracts only when adequate and timely planning has occurred and serious injury to the EPA's mission would result from a lapse of service, and require deputy-level approval for sole source bridge contracts over a specific dollar threshold.	R	Assistant Administrator for Administration and Resources Management	3/31/18	
6	17	Develop a tracking mechanism for bridge contracts.	R	Assistant Administrator for Administration and Resources Management	2/28/18	
7	19	Issue a memorandum reminding staff of the importance of including acquisition planning documents as part of the official contract records.	C	Assistant Administrator for Administration and Resources Management	9/29/17	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Office of the Administrator Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 21, 2017

OFFICE OF
THE ADMINISTRATOR

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report No. OA-FY16-0224
"Improved Acquisition Planning Will Help EPA Reduce Millions of Dollars in
High-Risk Contracts," dated August 9, 2017

FROM: Michael P. Flynn, Acting Deputy Administrator
Office of the Administrator //s//

TO: Arthur A. Elkins, Jr.
Office of Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. The agency concurs with Recommendation 3, that the Deputy Administrator issue an agency-wide memo regarding initiatives undertaken by the Office of Administration and Resources Management in response to this report. OARM is issuing a separate response to the other six recommendations in the report.

If you have any questions for the Office of Administrator regarding this response, please contact Ellen Treimel at (202) 564-0557 or Silvina Fonseca at (202) 564-1955.

Attachments

cc: Ryan Jackson
Henry Darwin
Michael Petscavage
Madeline Mullen
LaTanya Scott
Myka Sparrow
Silvina Fonseca
Ellen Treimel
Donna Vizian
Reginald Allen

Agency Response to High Level Recommendations

No.	Recommendations	Assigned to:	Corrective Actions	Estimated Completion
3	Issue an agency-wide memo to advocate and support OARM initiatives to achieve greater use of contracts that minimize risk and maximize value to the government, including reducing the use of high-risk contracts.	OA	The Acting Deputy Administrator will issue an agency-wide memo informing staff of the initiatives being undertaken by OARM and emphasizing the importance of participation and compliance.	Q1 FY 2018

OARM Response to Draft Report

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



SEP 21 2017

OFFICE OF
ADMINISTRATION
AND RESOURCES
MANAGEMENT

MEMORANDUM

SUBJECT: Response to the Office of Inspector General's Draft Report "Improved Acquisition Planning Will Help EPA Reduce Millions of Dollars in High-Risk Contracts" (Project No. OA-FY16-0224)

FROM: Donna J. Vizian, Acting Assistant Administrator//s//

TO: Michael Petscavage, Director
Office of Audit, Contract and Assistance Agreement Audits
Office of Inspector General

Thank you for the opportunity to respond to the subject audit report, "*Improving Acquisition Planning Will Help EPA Reduce Millions of Dollars in High-Risk Contracts*", dated August 9, 2017. The Office of Administration and Resources Management is providing a response to recommendations 1-7 with the exception of #3, which will be addressed by the Office of the Administrator. The agency concurs with the recommendations of this report and has included a summary response with the corrective actions and estimated completion dates.

Should you have any questions for the Office of Administration and Resources Management regarding this response, please contact Celia M. Vaughn, Chief of Staff, Office of Acquisition Management at (202) 564-1047 or vaughn.celia@epa.gov.

Attachment

cc: John Showman
Kimberly Patrick
Pam Legare
Celia Vaughn
John Oliver
Madeline Mullen
LaTanya Scott
Myka Sparrow
Marian Cooper
Lauren Lemley
Matthew Bell

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS:

No.	Recommendations	Assigned to:	Corrective Actions	Estimated Completion
1	Update policy and procedures to require the use of low-risk contracts and only permit high-risk contracts when low-risk contracts are not possible.	OARM	<p>OARM/OAM will review existing agency acquisition planning policy and procedures to ensure that emphasis is given to contract type selection and that the use and discussion of firm-fixed-price contracts is given serious consideration during the acquisition planning phase, in compliance with Federal Acquisition Regulation requirements in FAR 7.102 and FAR 16.1.</p> <p>OARM/OAM will involve agency stakeholders in communication and collaboration on this matter at the earliest possible time through the Acquisition Management Council, Policy Acquisition Council and Client Engagement Meetings to assure clarity of any updates to policy and procedures, and that their implementation in the acquisition planning process is supportive of program goals and objectives.</p>	March 31, 2018
2	Implement controls to tighten scrutiny of the contract type selection and require higher level approvals for all high-risk contracts. reports include all required information.	OARM	OARM/OAM will enhance oversight and enforcement of existing FAR & EPA Acquisition Guide specified acquisition planning process & procedures (and any updates thereto) that require documentation of the rationale for contract type	March 31, 2018

No.	Recommendations	Assigned to:	Corrective Actions	Estimated Completion
			<p>selection for other than firm-fixed-price (including determination & findings preparation and approval for time & materials or labor hours type contracts).</p> <p>OARM/OAM will exercise greater scrutiny of contract type discussions, decisions, and the quality and substance of supporting documentation through higher level review and approvals, based on its conduct of an informed analysis of the current needs, issues, and vulnerabilities in this area.</p>	
4	Issue guidance or policy to program offices and contracting staff regarding requirements for sole source bridge contracts, including a definition of bridge contracts and "serious injury", the authorization for use, and the impact on competition and agency goals.	OARM	OARM/OAM agrees with this recommendation and will develop and issue guidance to program offices and contracting staff regarding requirements for sole source bridge contracts, including the agency's definition of bridge contracts and "serious injury", the authorization for use, and the impact on competition and agency goals.	January 31, 2018
5	Permit sole source bridge contracts only when adequate and timely planning has occurred and serious injury to the EPA's mission would result from a lapse of service, and require deputy-level approval for sole source bridge contracts	OARM	OARM/OAM will enhance oversight and enforcement of existing FAR & EPA Acquisition Guide specified acquisition planning process and procedures (and any updates thereto) and assure that senior acquisition personnel and leadership within OARM/OAM reach out to their counterparts within the agency's	March 31, 2018

No.	Recommendations	Assigned to:	Corrective Actions	Estimated Completion
	over a specific dollar threshold.		<p>acquisition and program community, to hold accountable acquisition planners in timely performing the required acquisition planning.</p> <p>OARM/OAM will exercise greater scrutiny of the acquisition planning process in general, including contract type discussions, decisions, and the quality and substance of supporting documentation when requesting sole source bridge contract procurement, through higher level review and approvals, based on its conduct of an informed analysis of the current needs, issues, and vulnerabilities in this area.</p>	
6	Develop a tracking mechanism for bridge contracts.	OARM	OARM/OAM is currently working on the implementation of a tracking mechanism in EAS and expect this capability to be in place no later than September 30, 2017. However, implementation of reporting in EAS will be deferred pending the finalizing of the agency's definition of bridge contracts and "serious injury" which we expect to complete in January 2018.	February 28, 2018
7	Issue a memo reminding staff of the importance of including acquisition planning documents as part of the official contract records.	OARM	OARM/OAM will issue a Flash Notice via agency email to remind staff of the importance of including acquisition planning documents as part of the official contract records.	September 30, 2017

Distribution

The Administrator
Deputy Administrator
Chief of Staff
Chief of Staff for Operations
Deputy Chief of Staff for Operations
Assistant Administrator for Administration and Resources Management
Agency Follow-Up Official (the CFO)
Agency Follow-Up Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Deputy Assistant Administrator for Administration and Resources Management
Director, Office of Acquisition Management, Office of Administration and Resources
Management
Director, Office of Resources, Operations and Management, Office of Administration and
Resources Management
Deputy Director, Office of Resources, Operations and Management, Office of Administration
and Resources Management
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of Administration and Resources Management
Audit Follow-Up Coordinator, Office of Acquisition Management, Office of Administration and
Resources Management

To: Vizian, Donna[Vizian.Donna@epa.gov]; Glenn, Trey[Glenn.Trey@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Bloom, David[Bloom.David@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.MarkT@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Showman, John[Showman.John@epa.gov]; Heard, Anne[Heard.Anne@epa.gov]; Patrick, Kimberly[Patrick.Kimberly@epa.gov]; Noga, Vaughn[Noga.Vaughn@EPA.GOV]; Hitchens, Lynnann[hitchens.lynnann@epa.gov]; Johnston, Khanna[Johnston.Khanna@epa.gov]; Petrole, Maryann[Petrole.Maryann@epa.gov]; Hardy, Michael[Hardy.Michael@epa.gov]; Billups, Angie[Billups.Angie@epa.gov]; Mills, Keith[Mills.Keith@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Lemley, Lauren[Lemley.Lauren@epa.gov]; Johnson, Kathie[Johnson.Kathie@epa.gov]; Eubanks, Kristy[Eubanks.Kristy@epa.gov]; Tellis, Vickie[Tellis.Vickie@epa.gov]
From: OIG News
Sent: Wed 11/8/2017 2:32:12 PM
Subject: OIG Report: "EPA Paid \$1.5 Million for Subsidized and Unoccupied Parking Spaces Over a 2-Year Period"
[_epaoig_20171108-18-P-0036_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA Paid \$1.5 Million for Subsidized and Unoccupied Parking Spaces Over a 2-Year Period* (Report No. 18-P-0036). This report will be available to the public on the OIG's website at www.epa.gov/oig.

To: Pruitt, Scott[Pruitt.Scott@epa.gov]
Cc: Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Fine, Steven[fine.steven@epa.gov]; Bloom, David[Bloom.David@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.MarkT@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Simon, Harvey[Simon.Harvey@epa.gov]; McKinney, Robert[mckinney.robert@epa.gov]; Epley, Brian[epley.brian@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Hallum, Carrie[hallum.carrie@epa.gov]
From: OIG News
Sent: Mon 10/30/2017 1:31:10 PM
Subject: OIG Report: "EPA's Information Security Program Is Established, but Improvements Are Needed to Strengthen Its Processes"
[_epaoig_20171030-18-P-0031_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA's Information Security Program Is Established, but Improvements Are Needed to Strengthen Its Processes* (Report No. 18-P-0031). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

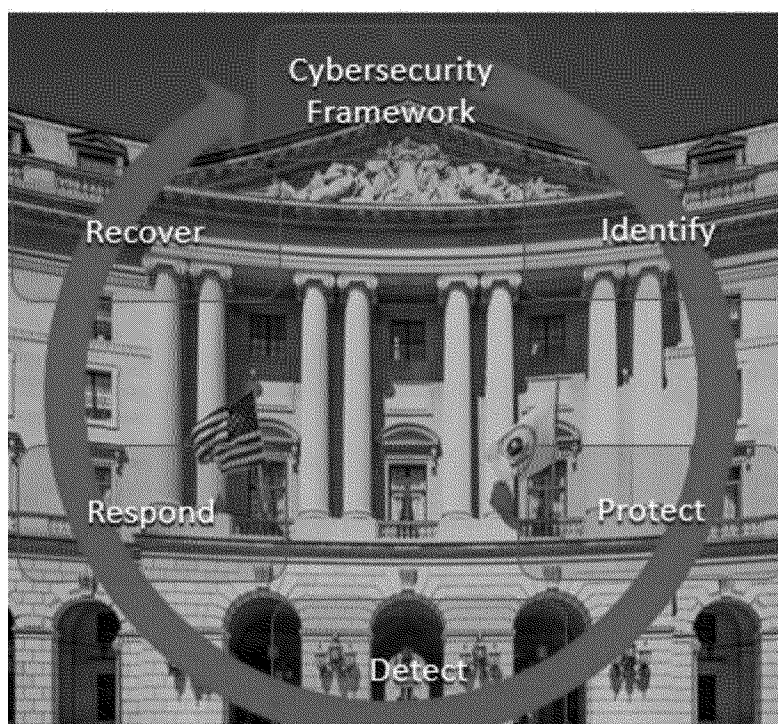


Compliance with the law
Operating efficiently and effectively

EPA's Information Security Program Is Established, but Improvements Are Needed to Strengthen Its Processes

Report No. 18-P-0031

October 30, 2017



Report Contributors:

Rudolph M. Brevard
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Ben Beeson

Abbreviations

EPA	U.S. Environmental Protection Agency
FISMA	Federal Information Security Modernization Act of 2014
FY	Fiscal Year
IG	Inspector General
OIG	Office of Inspector General
U.S.C.	United States Code

Cover image: Cybersecurity Framework. (EPA OIG graphic)

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At a Glance

Why We Did This Review

The Office of Inspector General conducted this audit to assess the U.S. Environmental Protection Agency's (EPA's) compliance with the Federal Information Security Modernization Act of 2014 (FISMA) during fiscal year (FY) 2017.

The Inspector General (IG) FISMA reporting metrics outline five maturity levels for IGs to rate their agency's information security programs:

Level 1 – Ad-Hoc
Level 2 – Defined
Level 3 – Consistently Implemented
Level 4 – Managed and Measurable
Level 5 – Optimized

The maturity model is a tool that summarizes an agency's information security program and outlines activities to improve the program.

We reported our audit results using the CyberScope system developed by the U.S. Department of Homeland Security.

This report addresses the following:

- ☐ *Compliance with the law.*
- ☐ *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

EPA's Information Security Program Is Established, but Improvements Are Needed to Strengthen Its Processes

What We Found

The EPA has an effective information security program and has completed all the requirements to achieve a Level 3 (Consistently Implemented) maturity level for the five security functions and related domains defined within the FY 2017 IG FISMA reporting metrics:

1. Identify – Risk Management.
2. Protect – Configuration Management, Identity and Access Management, and Security Training.
3. Detect – Information Security Continuous Monitoring.
4. Respond – Incident Response.
5. Recover – Contingency Planning.

We tested whether the EPA developed policies, procedures and strategies for each area within the IG FISMA reporting metrics. We also analyzed EPA management's self-assessments that contained assertions and additional information on whether the agency implemented processes and practices consistent with the specified security functions and related domains. In addition, we evaluated prior audit work to determine whether the self-assessments were consistent with our audit findings.

We concluded that the EPA defined policies, procedures and strategies for each security function and related domains. EPA management also provided sufficient evidence that the agency implemented a majority of processes and practices consistent with maturity model Level 3 (Consistently Implemented). However, we found substantial weaknesses in the EPA's information security training program related to how the agency verifies whether contractor personnel with significant information security responsibilities comply with specialized security training requirements.

Appendix A documents the results for the FY 2017 IG FISMA reporting metrics. We worked closely with EPA officials and briefed them on the results. We made no recommendations based on our analysis. The EPA agreed with our conclusions.

Although the EPA has an effective information security program, management emphasis is needed to achieve a higher level of maturity for the agency's information security program.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

October 30, 2017

MEMORANDUM

SUBJECT: EPA's Information Security Program Is Established,
but Improvements Are Needed to Strengthen Its Processes
Report No. 18-P-0031

FROM: Arthur A. Elkins Jr.

TO: Scott Pruitt, Administrator

This is our final report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY17-0204. This report contains conclusions that meet the Federal Information Security Modernization Act of 2014 reporting requirements as prescribed by the Office of Management and Budget and U.S. Department of Homeland Security. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

The EPA office having the primary oversight for the areas evaluated in this report is the Office of Environmental Information.

Action Required

You are not required to provide a written response to this final report. In accordance with the Office of Management and Budget Federal Information Security Modernization Act reporting instructions, we are forwarding this report, along with the agency's required information, to the Director of the Office of Management and Budget.

We will post this report to our website at www.epa.gov/oig.

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Appendices

- A Department of Homeland Security CyberScope Template**
- B Information Security Reports Issued in FY 2017**
- C Distribution**

Purpose

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this audit to evaluate the EPA's compliance with the Federal Information Security Modernization Act of 2014 (FISMA) during fiscal year (FY) 2017.

Background

Under FISMA (44 U.S.C. §3554 (a)(1)(A)(i) and (ii)), agency heads are responsible for providing information security protections commensurate with the risk and magnitude of harm resulting from the unauthorized access, use, disclosure, disruption, modification or destruction of information and information systems.

The FY 2017 Inspector General (IG) FISMA reporting metrics identified seven domains within the five security functions defined in the National Institute of Standards and Technology Framework for Improving Critical Infrastructure Cybersecurity. Each security function contains at least one corresponding domain of an agency's information security program, as shown in Figure 1. The National Institute of Standards and Technology cybersecurity framework provides agencies with a common structure for identifying and managing cybersecurity risks across the enterprise.

Figure 1: Cybersecurity framework security functions and domains

Identify	Protect	Detect	Respond	Recover
•Risk Management	•Configuration Management •Identity and Access Management •Security Training	•Information Security Continuous Monitoring	•Incident Response	•Contingency Planning

Source: FY 2017 IG FISMA of 2014 reporting metrics.

The IG FISMA reporting metrics provide guidance for assessing the maturity of controls to address those risks. This year's FISMA metrics represents a significant departure from prior year's reporting metrics. This year, the Office of Management and Budget introduced a new maturity model rating system for three of the five functions (Identify, Protect, and Recover). The Office of Management and Budget also reorganized the model itself to make it more intuitive. This eliminates our ability to compare this year's results to prior ratings of the security functions. The effectiveness of the information security program is based on a maturity model spectrum, in which levels 1 and 2 describe whether agencies have developed policies and procedures and levels 3 to 5 describe the extent to which the agencies have institutionalized those policies and procedures. Figure 2 details

the five maturity model levels, with Level 5 – “Optimized” being the highest maturity level an organization can achieve.

Figure 2: Maturity model levels



Source: FY 2017 IG FISMA of 2014 reporting metrics.

Within the context of the maturity model, Level 4 – “Managed and Measurable” represents an effective level of security at the domain, function and overall program level. In addition, the FY 2017 IG FISMA reporting metrics grant IGs the discretion to rate the agency’s information security program at a different maturity level than what has been calculated by the CyberScope system. The reporting metrics stated that the rationale is to provide greater flexibility when assessing the agency’s information security program.

Responsible Office

The Office of Environmental Information leads the EPA’s information management and information technology programs to provide the information, technology and services necessary to advance the protection of human health and the environment. Within the Office of Environmental Information, the EPA’s Chief Information Security Officer is responsible for the EPA’s information security program. Additionally, the Chief Information Security Officer is responsible for developing an agencywide information security program that

complies with FISMA and related information security laws, regulations, directives, policies and guidelines.

Scope and Methodology

We conducted our performance audit from May to October 2017 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

We conducted our testing through inquiries of agency personnel, inspection of relevant documentation and leveraging of current OIG information security audit work related to the Cybersecurity Framework Security Functions and domains. We also reviewed FY 2017 audit reports issued by the U.S. Government Accountability Office and the EPA OIG to identify any issues related to the security function areas.

The FY 2017 IG FISMA reporting metrics require IGs to provide three separate assessments of their agency's information security program. The first assessment requires IGs to evaluate their agency's information security program with respect to 54 questions related to the five security functions and related domains defined within the IG FISMA reporting metrics. The CyberScope system, which is used to report our assessment results, calculates a maturity model level for each security function based on the IG responses to the 54 questions. The second assessment requires IGs to provide additional information about the effectiveness of their agency's information security program that was not asked by the questions contained in the IG FISMA reporting metrics. The third assessment requires IGs to provide an overall self-assessment rating of Effective or Not Effective for its agency's information security program. In providing these three assessments, we conducted the following audit work to reach our conclusions for each required assessment:

- **IG FISMA Reporting Metrics Questions:** For each security function and related domain, we evaluated whether the EPA took the necessary action to complete Level 1 (Ad-Hoc) of the IG FISMA reporting metrics maturity model. For each level, agencies are required to meet specific steps to achieve that level and be considered reaching the next level within the maturity model. As such, we evaluated whether EPA policies, procedures and strategies met the Level 1 requirements for each security function and related domain. If the policies, procedures and strategies were formalized and documented, we rated the EPA at Level 2 (Defined). If the EPA did not meet all the requirements, we rated the agency at Level 1 (Ad Hoc) because that is the minimum level.

- **Additional Information About the EPA's Security Program:** For each security function and related domain, we used the control self-assessment methodology¹ to collect and evaluate EPA management's information on the effectiveness of the agency's information security program. We reviewed the provided information to determine whether the documents were relevant and reasonably supported the agency's assertions. We also relied upon audit work performed from FYs 2015 through 2017 to further assess whether management's assertions were consistent with our conclusions.
- **Overall Self-Assessment Rating:** We based our overall conclusion on the analysis of the collected audit documentation and whether the EPA:
 - Documented that policies, procedures and strategies were consistent with the IG FISMA reporting metrics questions.
 - Provided documentation of its information security practices and that activities met requirements consistent with the security functions and related domains outlined within the IG FISMA reporting metrics.
 - Implemented processes and activities, based on prior audit work, that were consistent with the security functions and related domains specified within the IG FISMA reporting metrics, even though weaknesses may have existed and the OIG made recommendations for management to improve controls.

Results of Review

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

We concluded that the EPA fully defined its policies, procedures and strategies and met the requirements of the security functions and related security domains outlined within the IG FISMA reporting metrics. The EPA asserted that it has fully implemented processes and activities consistent with the security functions and related domains specified within the IG FISMA reporting metrics, and provided artifacts and other documentation to support their assertions. Based on our analysis of this documentation and comparison of management's assertions against prior audit work, we concluded that the evidence supported management's assertions.

¹ According to the Institute of Internal Auditors, control self-assessment is a technique that allows personnel directly involved in the business process to participate in assessing the organization's risk management and control processes. Audit teams can use control self-assessment results to gather relevant information about risk and controls.

EPA management provided sufficient evidence that the agency implemented a majority of processes and practices consistent with the 54 questions outlined in the FY 2017 IG FISMA reporting metrics. We rated the EPA's information security function areas at maturity Level 3 on the IG FISMA reporting metrics maturity model, as shown in Table 1.

Table 1: Maturity level of EPA's information security function areas

Security Function	Maturity Level
1. Identify	Level 3: Consistently Implemented
2. Protect	Level 3: Consistently Implemented
3. Detect	Level 3: Consistently Implemented
4. Respond	Level 3: Consistently Implemented
5. Recover	Level 3: Consistently Implemented

Source: Results of OIG analyses of EPA's self-assessments.

However, the EPA indicated that it has not implemented some activities associated with the security functions. For example:

- **Risk Management:** The EPA has not consistently implemented a process for using standard data elements/taxonomy to develop and maintain an up-to-date inventory of hardware assets connected to the organization's network with the detailed information necessary for tracking and reporting.
- **Identity and Access Management:** EPA has not fully implemented an Identity, Credential and Access Management strategy to guide its Identity, Credential and Access Management processes and activities.

We also found substantial weaknesses in the EPA's information security training program related to how the agency verifies that contractor personnel with significant information security responsibilities comply with specialized security training requirements. The OIG issued Report No. 17-P-0344, *EPA Lacks Processes to Validate Whether Contractors Receive Specialized Role-Based Training for Network and Data Protection*, which noted that the EPA is unaware as to whether information security contractors possess the skills and training needed to protect the agency's information, data and network from security breaches. As such, we rated a question within the Protect security function in the IG FISMA reporting metrics on specialized training for personnel with significant information security responsibilities at Level – 1 (Ad-hoc).

We worked closely with the agency representatives and briefed them on each portion of the IG FISMA reporting metrics as the results were completed. We collected management's feedback on our analysis either verbally or through email. Where appropriate, we updated our analysis and incorporated management's feedback. Appendix A contains the detailed results of our analysis.

Management agreed with our conclusions. Appendix B contains a listing of significant information security audit reports published in FY 2017.

Conclusion

Although the EPA has an effective information security program, management emphasis is needed to achieve a higher level of maturity for the agency's information security program.

***Department of Homeland Security
CyberScope Template***

Inspector General

Section Report

2017
Annual FISMA
Report

Environmental Protection Agency

Function 1: Identify - Risk Management

- 1 Does the organization maintain a comprehensive and accurate inventory of its information systems (including cloud systems, public facing websites, and third party systems), and system interconnections (NIST SP 800-53: CA-3 and PM-5; OMB M-04-25; NIST Cybersecurity Framework (CSF): ID.AM-1 – 4)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 2 To what extent does the organization use standard data elements/taxonomy to develop and maintain an up-to-date inventory of hardware assets connected to the organization's network with the detailed information necessary for tracking and reporting (NIST SP 800-53: CA-7 and CM-8; NIST SP 800-137; Federal Enterprise Architecture (FEA) Framework, v2)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 3 To what extent does the organization use standard data elements/taxonomy to develop and maintain an up-to-date inventory of the software and associated licenses used within the organization with the detailed information necessary for tracking and reporting (NIST SP 800-53: CA-7, CM-8, and CM-10; NIST SP 800-137; FEA Framework, v2)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 4 To what extent has the organization categorized and communicated the importance/priority of information systems in enabling its missions and business functions (NIST SP 800-53: RA-2, PM-7, and PM-11; NIST SP 800-60; CSF: ID.BE-3; and FIPS 199)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 5 To what extent has the organization established, communicated, and implemented its risk management policies, procedures, and strategy that include the organization's processes and methodologies for categorizing risk, developing a risk profile, assessing risk, risk appetite/tolerance levels, responding to risk, and monitoring risk (NIST 800-39; NIST 800-53: PM-8, PM-9; CSF: ID.RM-1 – ID.RM-3; OMB A-123; CFO Council ERM Playbook)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

Function 1: Identify - Risk Management

- 6 Has the organization defined an information security architecture and described how that architecture is integrated into and supports the organization's enterprise architecture to provide a disciplined and structured methodology for managing risk (NIST 800-39; FEA; NIST 800-53: PL-8, SA-3, and SA-8)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 7 To what degree have roles and responsibilities of stakeholders involved in risk management including the risk executive function/Chief Risk Officer, Chief Information Officer, Chief Information Security Officer, and other internal and external stakeholders and mission specific resources been defined and communicated across the organization (NIST 800-39: Section 2.3.1 and 2.3.2; NIST 800-53: RA-1; CSF: ID.RM-1 – ID.GV-2, OMB A-123, CFO Council ERM Playbook)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 8 To what extent has the organization ensured that plans of action and milestones (POA&Ms) are utilized for effectively mitigating security weaknesses (NIST SP 800-53: CA-5; OMB M-04-25)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 9 To what extent has the organization defined, communicated, and implemented its policies and procedures for conducting system level risk assessments, including for identifying and prioritizing
- (i) internal and external threats, including through use of the common vulnerability scoring system, or other equivalent framework
 - (ii) internal and external asset vulnerabilities, including through vulnerability scanning,
 - (iii) the potential likelihoods and business impacts/consequences of threats exploiting vulnerabilities, and
 - (iv) selecting and implementing security controls to mitigate system-level risks (NIST 800--37; NIST 800-39; NIST 800--53: PL-2, RA-1; NIST 800-30; CSF:ID.RA-1 – 6)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

- 10 To what extent does the organization ensure that information about risks are communicated in a timely manner to all necessary internal and external stakeholders (CFO Council ERM Playbook; OMB A-123)?

Defined (Level 2)

Comments:

See comment for Question 13.2.

Function 1: Identify - Risk Management

- 11 To what extent does the organization ensure that specific contracting language (such as appropriate information security and privacy requirements and material disclosures, FAR clauses, and clauses on protection, detection, and reporting of information) and SLAs are included in appropriate contracts to mitigate and monitor the risks related to contractor systems and services (FAR Case 2007--004; Common Security Configurations; FAR Sections: 24.104, 39.101, 39.105, 39.106, 52.239-1; President's Management Council; NIST 800-53: SA-4; FedRAMP standard contract clauses; Cloud Computing Contract Best Practices; FY 2017 CIO FISMA Metrics: 1.7, 1.8)?

Defined (Level 2)

Comments: See comment for Question 13.2.

- 12 To what extent does the organization utilize technology (such as a governance, risk management, and compliance tool) to provide a centralized, enterprise wide (portfolio) view of risks across the organization, including risk control and remediation activities, dependencies, risk scores/levels, and management dashboards (NIST SP 800-39; OMB A-123; CFO Council ERM Playbook)?

Defined (Level 2)

Comments: See comment for Question 13.2.

- 13.1 Please provide the assessed maturity level for the agency's Identify - Risk Management function.

Consistently Implemented (Level 3)

Comments: See comment for Question 13.2.

Function 1: Identify - Risk Management

- 13.2 Provide any additional information on the effectiveness (positive or negative) of the organization's risk management program that was not noted in the questions above. Taking into consideration the overall maturity level generated from the questions above and based on all testing performed, is the risk management program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

However, the EPA indicated that it has not implemented some activities associated with the security functions. For example:

The EPA has not consistently implemented a process for using standard data elements/taxonomy to develop and maintain an up-to-date inventory of hardware assets connected to the organization's network with the detailed information necessary for tracking and reporting.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 2A: Protect - Configuration Management

- 14 To what degree have the roles and responsibilities of configuration management stakeholders been defined/communicated across the agency, and appropriately resourced (NIST SP 800- 53: CM-1; SP 800-128: Section 2.4)?

Defined (Level 2)

Comments:

See comment in Question 22.

- 15 To what extent does the organization utilize an enterprise wide configuration management plan that includes, at a minimum, the following components: roles and responsibilities, including establishment of a Change Control Board (CCB) or related body; configuration management processes, including processes for: identifying and managing configuration items during the appropriate location within an organization's SDLC; configuration monitoring; and applying configuration management requirements to contracted systems (NIST 800--128: Section 2.3.2; NIST 800--53: CM-9)?

Defined (Level 2)

Comments:

See comment in Question 22.

Function 2A: Protect - Configuration Management

- 16 To what degree have information system configuration management policies and procedures been defined and implemented across the organization? (Note: the maturity level should take into consideration the maturity of questions 17, 18, 19, and 21) (NIST SP 800-53: CM-1; NIST 800-128: 2.2.1)

Defined (Level 2)

Comments: See comment in Question 22.

- 17 To what extent does the organization utilize baseline configurations for its information systems and maintain inventories of related components at a level of granularity necessary for tracking and reporting (NIST SP 800-53: CM-2, CM-8; FY 2017 CIO FISMA Metrics: 1.4, 1.5, and 2.1; CSF: ID.DE.CM-7)?

Defined (Level 2)

Comments: See comment in Question 22.

- 18 To what extent does the organization utilize configuration settings/common secure configurations for its information systems (NIST SP 800-53: CM-6, CM-7, and SI-2; FY 2017 CIO FISMA Metrics: 2.2; SANS/CIS Top 20 Security Controls 3.7)?

Defined (Level 2)

Comments: See comment in Question 22.

- 19 To what extent does the organization utilize flaw remediation processes, including patch management, to manage software vulnerabilities (NIST SP 800-53: CM-3, SI-2; NIST 800-40, Rev. 3; OMB M-16-04; SANS/CIS Top 20 Control 4.5; and DHS Binding Operational Directive 15-01)?

Defined (Level 2)

Comments: See comment in Question 22.

- 20 To what extent has the organization adopted the Trusted Internet Connection (TIC) program to assist in protecting its network (FY 2017 CIO Metrics: 2.26, 2.27, 2.29; OMB M-08-05)?

Defined (Level 2)

Comments: See comment in Question 22.

- 21 To what extent has the organization defined and implemented configuration change control activities including: determination of the types of changes that are configuration controlled; review and approval/disapproval of proposed changes with explicit consideration of security impacts and security classification of the system; documentation of configuration change decisions; implementation of approved configuration changes; retaining records of implemented changes; auditing and review of configuration changes; and coordination and oversight of changes by the CCB, as appropriate (NIST 800-53: CM-2, CM-3)?

Defined (Level 2)

Comments: See comment in Question 22.

Function 2A: Protect - Configuration Management

22 Provide any additional information on the effectiveness (positive or negative) of the organization's configuration management program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the configuration management program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

(a) Stakeholders have adequate resources (people, processes and technology) to consistently implement information system configuration management activities.

(b) The EPA has developed a Configuration Management Policy to establish an Agency-wide Configuration Management Program.

(c) The EPA consistently implements its policies and procedures for managing the configurations of its information systems. Further, the organization utilizes lessons learned sessions to make improvements to its policies and procedures.

(d) The EPA consistently records, implements and maintains baseline configurations of its information systems and an inventory of related components in accordance with the organization's policies and procedures.

(e) The EPA consistently implements, assesses and maintains secure configuration settings for its information systems based on least functionality.

(f) The EPA consistently implements its flaw remediation policies, procedures and processes and ensures that patches, hotfixes, service packs and anti-virus/malware software updates are identified and installed.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 2B: Protect - Identity and Access Management

Function 2B: Protect - Identity and Access Management

- 23 To what degree have the roles and responsibilities of identity, credential, and access management (ICAM) stakeholders been defined, communicated across the agency, and appropriately resourced (NIST 800-53: AC-1, IA-1, PS-1; and the Federal Identity, Credential, and Access Management Roadmap and Implementation Guidance (FICAM))?

Defined (Level 2)

Comments: See comment for Question 32.

- 24 To what degree does the organization utilize an ICAM strategy to guide its ICAM processes and activities (FICAM)?

Defined (Level 2)

Comments: See comment for Question 32.

- 25 To what degree have ICAM policies and procedures been defined and implemented? (Note: the maturity level should take into consideration the maturity of questions 27 through 31) (NIST 800-53: AC-1 and IA--1; Cybersecurity Strategy and Implementation Plan (CSIP); and SANS/CIS Top 20: 14.1)?

Defined (Level 2)

Comments: See comment for Question 32.

- 26 To what extent has the organization developed and implemented processes for assigning personnel risk designations and performing appropriate screening prior to granting access to its systems (NIST SP 800-53: PS-2, PS- 3; and National Insider Threat Policy)?

Defined (Level 2)

Comments: See comment for Question 32.

- 27 To what extent does the organization ensure that access agreements, including nondisclosure agreements, acceptable use agreements, and rules of behavior, as appropriate, for individuals (both privileged and non- privileged users) that access its systems are completed and maintained? (NIST SP 800--53: AC-8, PL-4, and PS-6)?

Defined (Level 2)

Comments: See comment for Question 32.

- 28 To what extent has the organization implemented strong authentication mechanisms (PIV or Level of Assurance 4 credential) for non-privileged users to access the organization's facilities, networks, and systems, including for remote access (CSIP; HSPD-12; NIST SP 800--53: AC-17; NIST SP 800-128; FIPS 201-2; NIST SP 800-63; and Cybersecurity Sprint)?

Defined (Level 2)

Comments: See comment for Question 32.

Function 2B: Protect - Identity and Access Management

- 29 To what extent has the organization implemented strong authentication mechanisms (PIV or Level of Assurance 4 credential) for privileged users to access the organization's facilities, networks, and systems, including for remote access (CSIP; HSPD-12; NIST SP 800--53: AC-17; NIST SP 800-128; FIPS 201-2; NIST SP 800-63; and Cybersecurity Sprint)?

Defined (Level 2)

Comments:

See comment for Question 32.

- 30 To what extent does the organization ensure that privileged accounts are provisioned, managed, and reviewed in accordance with the principles of least privilege and separation of duties? Specifically, this includes processes for periodic review and adjustment of privileged user accounts and permissions, inventorying and validating the scope and number of privileged accounts, and ensuring that privileged user account activities are logged and periodically reviewed (FY 2017 CIO FISMA metrics: Section 2; NIST SP 800-53: AC-1, AC-2 (2), AC-17; CSIP)?

Defined (Level 2)

Comments:

See comment for Question 32.

- 31 To what extent does the organization ensure that appropriate configuration/connection requirements are maintained for remote access connections? This includes the use of appropriate cryptographic modules, system time-outs, and the monitoring and control of remote access sessions (NIST SP 800-53: AC--17, SI-4; and FY 2017 CIO FISMA Metrics: Section 2)?

Defined (Level 2)

Comments:

See comment for Question 32.

Function 2B: Protect - Identity and Access Management

- 32 Provide any additional information on the effectiveness (positive or negative) of the organization's identity and access management program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the identity and access management program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

However, the EPA indicated that it has not implemented some activities associated with the security functions. For example:

The EPA has not fully implemented an Identity, Credential and Access Management strategy to guide its Identity, Credential and Access Management processes and activities.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 2C: Protect - Security Training

- 33 To what degree have the roles and responsibilities of security awareness and training program stakeholders been defined, communicated across the agency, and appropriately resourced? (Note: this includes the roles and responsibilities for the effective establishment and maintenance of an organization wide security awareness and training program as well as the awareness and training related roles and responsibilities of system users and those with significant security responsibilities (NIST 800-53: AT-1; and NIST SP 800-50)?)

Defined (Level 2)

Comments:

See comment for Question 39.2.

Function 2C: Protect - Security Training

- 34 To what extent does the organization utilize an assessment of the skills, knowledge, and abilities of its workforce to provide tailored awareness and specialized security training within the functional areas of: identify, protect, detect, respond, and recover? (NIST 800-53: AT-2 and AT-3; NIST 800-50: Section 3.2; Federal Cybersecurity Workforce Assessment Act of 2015; National Cybersecurity Workforce Framework v1.0; NIST SP 800-181 (Draft); and CIS/SANS Top 20: 17.1)?

Defined (Level 2)

Comments:

See comment for Question 39.2.

- 35 To what extent does the organization utilize a security awareness and training strategy/plan that leverages its organizational skills assessment and is adapted to its culture? (Note: the strategy/plan should include the following components: the structure of the awareness and training program, priorities, funding, the goals of the program, target audiences, types of courses/material for each audience, use of technologies (such as email advisories, intranet updates/wiki pages/social media, web based training, phishing simulation tools), frequency of training, and deployment methods (NIST 800-53: AT-1; NIST 800-50: Section 3))

Defined (Level 2)

Comments:

See comment for Question 39.2.

- 36 To what degree have security awareness and specialized security training policies and procedures been defined and implemented? (Note: the maturity level should take into consideration the maturity questions 37 and 38 below) (NIST 800-53: AT-1 through AT-4; and NIST 800-50)

Defined (Level 2)

Comments:

See comment for Question 39.2.

- 37 To what degree does the organization ensure that security awareness training is provided to all system users and is tailored based on its organizational requirements, culture, and types of information systems? (Note: Awareness training topics should include, as appropriate: consideration of organizational policies, roles and responsibilities, secure e-mail, browsing, and remote access practices, mobile device security, secure use of social media, phishing, malware, physical security, and security incident reporting (NIST 800-53: AT-2; FY 17 CIO FISMA Metrics: 2.23; NIST 800-50: 6.2; SANS Top 20: 17.4))

Defined (Level 2)

Comments:

See comment for Question 39.2.

Function 2C: Protect - Security Training

- 38 To what degree does the organization ensure that specialized security training is provided to all individuals with significant security responsibilities (as defined in the organization's security policies and procedures) (NIST 800-53: AT-3 and AT-4; FY 17 CIO FISMA Metrics: 2.23)?

Ad Hoc (Level 1)

Comments:

The OIG issued a report on July 31, 2017, that documented that the EPA has not developed processes to validate that contractors have completed specialized (role-based) training.

- 39.1 Please provide the assessed maturity level for the agency's Protect - Configuration Management/Identity and Access Management/Security Training (Functions 2A - 2C).

Consistently Implemented (Level 3)

Comments:

See comments for Questions 22, 32 and 39.2

- 39.2 Provide any additional information on the effectiveness (positive or negative) of the organization's security training program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the security training program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

However, we also found weaknesses in the EPA's information security training program related to how the agency verifies contractor personnel with significant information security responsibilities comply with specialized security training requirements.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 3: Detect - ISCM

Function 3: Detect - ISCM

40 To what extent does the organization utilize an information security continuous monitoring (ISCM) strategy that addresses ISCM requirements and activities at each organizational tier and helps ensure an organization-wide approach to ISCM (NIST SP 800-137: Sections 3.1 and 3.6)?

Defined (Level 2)

Comments: See comment for Question 45.2.

41 To what extent does the organization utilize ISCM policies and procedures to facilitate organization-wide, standardized processes in support of the ISCM strategy? ISCM policies and procedures address, at a minimum, the following areas: ongoing assessments and monitoring of security controls; collecting security related information required for metrics, assessments, and reporting; analyzing ISCM data, reporting findings, and reviewing and updating the ISCM strategy (NIST SP 800-53: CA-7). (Note: The overall maturity level should take into consideration the maturity of question 43)

Defined (Level 2)

Comments: See comment for Question 45.2.

42 To what extent have ISCM stakeholders and their roles responsibilities, levels of authority, and dependencies been defined and communicated across the organization (NIST SP 800-53: CA-1; NIST SP 800-137; and FY 2017 CIO FISMA Metrics)?

Defined (Level 2)

Comments: See comment for Question 45.2.

43 How mature are the organization's processes for performing ongoing assessments, granting system authorizations, and monitoring security controls (NIST SP 800-137: Section 2.2; NIST SP 800-53: CA-2, CA-6, and CA-7; NIST Supplemental Guidance on Ongoing Authorization; OMB M-14-03)?

Defined (Level 2)

Comments: See comment for Question 45.2.

44 How mature is the organization's process for collecting and analyzing ISCM performance measures and reporting findings (NIST SP 800-137)?

Defined (Level 2)

Comments: See comment for Question 45.2.

45.1 Please provide the assessed maturity level for the agency's Detect - ISCM function.

Consistently Implemented (Level 3)

Comments: See comment for Question 45.2.

Function 3: Detect - ISCM

- 45.2 Provide any additional information on the effectiveness (positive or negative) of the organization's ISCM program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the ISCM program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

(a) The EPA's information security continuous monitoring policies and procedures have been consistently implemented for the specified areas. The EPA also consistently captures lessons learned to make improvements to the information security continuous monitoring policies and procedures. The EPA has ensured continuous monitoring is consistently implemented by using the authorization-to-operate package review process to provide oversight of the assessment process. This process ensures system control effectiveness is documented in the Agency's repository system and plan of action and milestones are created to track unmitigated weaknesses.

(b) The EPA has consistently implemented its processes for performing ongoing security control assessments, granting system authorizations and monitoring security controls. All security control classes (management, operational, technical) and types (common, hybrid and system-specific) are monitored and assessed on a three-year cycle.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 4: Respond - Incident Response

- 46 To what extent has the organization defined and implemented its incident response policies, procedures, plans, and strategies, as appropriate, to respond to cybersecurity events (NIST SP 800-53: IR-1; NIST 800-61 Rev. 2; FY 2017 CIO FISMA Metrics: 4.1, 4.3, and 4.6)? (Note: The overall maturity level should take into consideration the maturity of questions 48 - 52)

Defined (Level 2)

Comments:

See comment for Questions 53.2.

Function 4: Respond - Incident Response

47 To what extent have incident response team structures/models, stakeholders, and their roles, responsibilities, levels of authority, and dependencies been defined and communicated across the organization (NIST SP 800-53; NIST SP 800-83; NIST SP 800-61 Rev. 2; OMB M-16-03; OMB M-16-04; FY 2017 CIO FISMA Metrics: 1.6 and 4.5; and US-CERT Federal Incident Notification Guidelines)?

Defined (Level 2)

Comments: See comment for Questions 53.2.

48 How mature are the organization's processes for incident detection and analysis (NIST 800-53: IR-4 and IR-6; NIST SP 800-61 Rev. 2; US- CERT Incident Response Guidelines)?

Defined (Level 2)

Comments: See comment for Questions 53.2.

49 How mature are the organization's processes for incident handling (NIST 800-53: IR-4)?

Defined (Level 2)

Comments: See comment for Questions 53.2.

50 To what extent does the organization ensure that incident response information is shared with individuals with significant security responsibilities and reported to external stakeholders in a timely manner (FISMA; OMB M-16-03; NIST 800-53: IR-6; US-CERT Incident Notification Guidelines)?

Defined (Level 2)

Comments: See comment for Questions 53.2.

51 To what extent does the organization collaborate with stakeholders to ensure on-site, technical assistance/surge capabilities can be leveraged for quickly responding to incidents and enter into contracts, as appropriate, for incident response support (FY 2017 CIO FISMA Metrics: 4.4; NIST SP 800-86)?

Defined (Level 2)

Comments: See comment for Questions 53.2.

Function 4: Respond - Incident Response

- 52 To what degree does the organization utilize the following technology to support its incident response program?
- Web application protections, such as web application firewalls
 - Event and incident management, such as intrusion detection and prevention tools, and incident tracking and reporting tools
 - Aggregation and analysis, such as security information and event management (SIEM) products
 - Malware detection, such as antivirus and antispam software technologies
 - Information management, such as data loss prevention
 - File integrity and endpoint and server security tools (NIST SP 800-137; NIST SP 800-61, Rev. 2)

Defined (Level 2)

Comments: See comment for Questions 53.2.

- 53.1 Please provide the assessed maturity level for the agency's Respond - Incident Response function.

Consistently Implemented (Level 3)

Comments: See comment for Questions 53.2.

Function 4: Respond - Incident Response

53.2 Provide any additional information on the effectiveness (positive or negative) of the organization's incident response program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the incident response program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

(a) The EPA consistently utilizes its threat vector taxonomy to classify incidents and consistently implements its processes for incident detection, analysis and prioritization. In addition, the organization consistently implements and analyzes precursors and indicators generated by the following technologies: intrusion detection/prevention, security information and event management, antivirus and antispam software, and file integrity checking software.

(b) The EPA consistently implements its containment strategies, incident eradication processes, processes to remediate vulnerabilities, and recovers system operations.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Function 5: Recover - Contingency Planning

54 To what extent have roles and responsibilities of stakeholders involved in information systems contingency planning been defined and communicated across the organization, including appropriate delegations of authority (NIST 800-53: CP-1 and CP-2; NIST 800-34; NIST 800-84; FCD-1: Annex B)?

Defined (Level 2)

Comments:

See comment for Question 61.2.

Function 5: Recover - Contingency Planning

55 To what extent has the organization defined and implemented its information system contingency planning program through policies, procedures, and strategies, as appropriate? (Note: Assignment of an overall maturity level should take into consideration the maturity of questions 56-60)NIST SP 800-34; NIST SP 800--161).

Defined (Level 2)

Comments: See comment for Question 61.2.

56 To what degree does the organization ensure that the results of business impact analyses are used to guide contingency planning efforts (NIST 800-53: CP-2; NIST 800--34, Rev. 1, 3.2, FIPS 199, FCD--1, OMB M-17-09)?

Defined (Level 2)

Comments: See comment for Question 61.2.

57 To what extent does the organization ensure that information system contingency plans are developed, maintained, and integrated with other continuity plans (NIST 800-53: CP-2; NIST 800-34)?

Defined (Level 2)

Comments: See comment for Question 61.2.

58 To what extent does the organization perform tests/exercises of its information system contingency planning processes (NIST 800-34; NIST 800-53: CP-3, CP-4)?

Defined (Level 2)

Comments: See comment for Question 61.2.

59 To what extent does the organization perform information system backup and storage, including use of alternate storage and processing sites, as appropriate (NIST 800--53: CP-6, CP-7, CP-8, and CP-9; NIST SP 800-34: 3.4.1, 3.4.2, 3.4.3; FCD1; NIST CSF: PR.IP- 4; and NARA guidance on information systems security records)?

Defined (Level 2)

Comments: See comment for Question 61.2.

60 To what level does the organization ensure that information on the planning and performance of recovery activities is communicated to internal stakeholders and executive management teams and used to make risk based decisions (CSF: RC.CO-3; NIST 800-53: CP-2, IR-4)?

Defined (Level 2)

Comments: See comment for Question 61.2.

Function 5: Recover - Contingency Planning

61.1 Please provide the assessed maturity level for the agency's Recover - Contingency Planning function.

Consistently Implemented (Level 3)

Comments:

See comment for Question 61.2.

61.2 Provide any additional information on the effectiveness (positive or negative) of the organization's contingency planning program that was not noted in the questions above. Taking into consideration the maturity level generated from the questions above and based on all testing performed, is the contingency program effective?

The EPA has an effective information security program. Based on our analysis of EPA material and the additional documentation provided by EPA representatives, we concluded that the EPA took sufficient steps to complete the requirements specified within the FY 2017 IG FISMA reporting metrics to reach Level 3 (Consistently Implemented) of the FISMA maturity model.

(a) The EPA has established appropriate teams that are ready to implement their information system contingency planning strategies. Stakeholders and teams have adequate resources (people, processes and technology) to effectively implement system contingency planning activities. The EPA mandates each system must have a contingency plan which goes through an annual review/update process.

(b) The EPA incorporates the results of organizational and system level business impact analyses into strategy and plan development efforts consistently. System level business impact analyses are integrated with the organizational level business impact analysis and include: (1) characterization of all system components, determination of missions/business processes and recovery criticality, (2) identification of resource requirements, and (3) identification of recovery priorities for system resources.

Comments:

We limited our testing to determine whether the agency possessed the noted policies, procedures and strategies required for each metric under the function area. If the policies, procedures and strategies were formalized and documented we rated the agency at level 2 (Defined). If not, we rated the agency at level 1 (Ad Hoc). However, we did not conduct additional testing to determine whether the agency implemented the noted policies, procedures and strategies and we did not test to determine what additional steps the agency needs to complete to achieve a higher maturity level.

Calculated Maturity Level - Defined (Level 2)

Comments:

See comment for F.02.

Function 0: Overall

Function 0: Overall

- 0.1 Please provide an overall IG self-assessment rating (Effective/Not Effective)

Effective

- 0.2 Please provide an overall assessment of the agency's information security program. The narrative should include a description of the assessment scope, a summary on why the information security program was deemed effective/ineffective and any recommendations on next steps. Please note that OMB will include this information in the publicly available Annual FISMA Report to Congress to provide additional context for the Inspector General's effectiveness rating of the agency's information security program. OMB may modify the response to conform with the grammatical and narrative structure of the Annual Report.

The EPA has an effective information security program. We concluded that the EPA fully defined its policies, procedures and strategies to meet the requirements of the security functions and related domains outlined in the IG FISMA reporting metrics. The EPA asserted that it has fully implemented processes and activities consistent with the IG FISMA reporting metrics and provided artifacts and other documentation to support their assertions. Based on our analysis of this documentation and comparison of management's assertions against prior audit work, we concluded the evidence supported management's assertions. We worked closely with EPA representatives and briefed them on each portion of the IG FISMA reporting metrics as the results were completed; collected management's feedback on our analysis; and, where appropriate, updated our analysis to incorporate management's feedback. We concluded that the EPA took sufficient steps to complete the requirements in order to reach Level 3 (Consistently Implemented) of the FISMA maturity model. Management agreed with our conclusions.

APPENDIX A: Maturity Model Scoring

Function 1: Identify - Risk Management

Function	Count
Ad-Hoc	0
Defined	12
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 2A: Protect - Configuration Management

Function	Count
Ad-Hoc	0
Defined	8
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 2B: Protect - Identity and Access Management

Function	Count
Ad-Hoc	0
Defined	9
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 2C: Protect - Security Training

Function	Count
Ad-Hoc	1
Defined	5
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 3: Detect - ISCM

Function	Count
Ad-Hoc	0
Defined	5
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 4: Respond - Incident Response

Function	Count
Ad-Hoc	0
Defined	7
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function 5: Recover - Contingency Planning

Function	Count
Ad-Hoc	0
Defined	7
Consistently Implemented	0
Managed and Measurable	0
Optimized	0
Function Rating: Defined (Level 2)	0

Function	Defined (Level 2)	Assessed Maturity Level	Explanation
Function 1: Identify - Risk Management		Consistently Implemented (Level 3)	See comment for Question 13.2
Function 2: Protect - Configuration Management / Identity Management / Security Training	Defined (Level 2)	Consistently Implemented (Level 3)	See comments for Questions 22, 32 and 39.2
Function 3: Detect - ISCM	Defined (Level 2)	Consistently Implemented (Level 3)	See comment for Question 45.2.
Function 4: Respond - Incident Response	Defined (Level 2)	Consistently Implemented (Level 3)	See comment for Questions 53.2.
Function 5: Recover - Contingency Planning	Defined (Level 2)	Consistently Implemented (Level 3)	See comment for Question 61.2.
Overall	Not Effective	Effective	See comment for F.02.

Information Security Reports Issued in FY 2017

The EPA OIG issued the following reports in FY 2017 that included recommendations regarding different areas within the EPA's information security program:

- **Report No. 17-P-0344, *EPA Lacks Processes to Validate Whether Contractors Receive Specialized Role-Based Training for Network and Data Protection*, dated July 31, 2017.** We reported that the EPA is unaware as to whether information security contractors possess the skills and training needed to protect the agency's information, data and network from security breaches. In addition, the EPA did not report contractor training status in its FYs 2015 and 2016 Chief Information Officer's Annual FISMA reports submitted to the Office of Management and Budget. The agency also has insufficient information to manage risks to its data and network. We made four recommendations, and EPA officials agreed with the final recommendations along with completing one of the four recommendations. The EPA indicated in the agency's Management Audit Tracking System that it plans to complete all corrective actions for the remaining recommendations by October 31, 2019.
- **Report No. 17-P-0205, *Controls Needed to Track Changes to EPA's Compass Financials Data*, dated May 8, 2017.** We reported that the Office of the Chief Financial Officer needed to strengthen internal controls to certify that any changes made to the Compass Financials application are implemented based on management approval. Specifically, the Office of the Chief Financial Officer lacked documentation that supports the approval and verification of direct modifications made to the Compass database. The Office of the Chief Financial Officer also lacked procedures for handling emergency or unscheduled configuration changes made to financial information systems. We made three recommendations, and the EPA took actions to address the identified weaknesses. All three recommendations are closed with corrective actions completed.
- **Report No. 17-P-0062, *Congressionally Requested Audit: EPA Needs to Improve Processes for Preserving Text Messages as Federal Records*, dated December 21, 2016.** We reported that we did not find instances where the EPA used text messaging to intentionally circumvent the Federal Records Act. We found that the EPA implemented policies and procedures for preserving text messages, and took steps to make employees aware of the updated records management policy. However, management attention is still needed for the EPA's records management and Freedom of Information Act practices. Additionally, the EPA's mobile device management processes do not prevent employees from changing a device's configuration settings for retaining text messages on all government-issued mobile devices. We made six recommendations. The EPA indicated it completed corrective actions for two of the six recommendations and will implement the remaining four corrective actions by September 30, 2018.

- **Report No. 17-P-0029, *Acquisition Certifications Needed for Managers Overseeing Development of EPA's Electronic Manifest System*, dated November 7, 2016.** We reported that program and project managers responsible for overseeing development of the Electronic Manifest system did not obtain the required federal certification necessary to oversee a major acquisition. The EPA's February 2009 interim policy was outdated and did not reflect the December 2013 revisions made to the Federal Acquisition Certification for Program and Project Managers by the Office of Management and Budget. The EPA agreed with our two recommendations. The agency indicated that it completed corrective actions for the recommendations as of February 22, 2017.

Distribution

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To: Vizian, Donna[Vizian.Donna@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Bloom, David[Bloom.David@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.MarkT@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Showman, John[Showman.John@epa.gov]; Hitchens, Lynnann[hitchens.lynnann@epa.gov]; Hardy, Michael[Hardy.Michael@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Lemley, Lauren[Lemley.Lauren@epa.gov]
From: OIG News
Sent: Mon 10/16/2017 1:31:30 PM
Subject: OIG Report: "EPA Telework Program Is Consistent With U.S. Office of Personnel Management Guidance"
[_epaoig_20171016-18-P-0024_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA Telework Program Is Consistent With U.S. Office of Personnel Management Guidance* (Report No. 18-P-0024). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

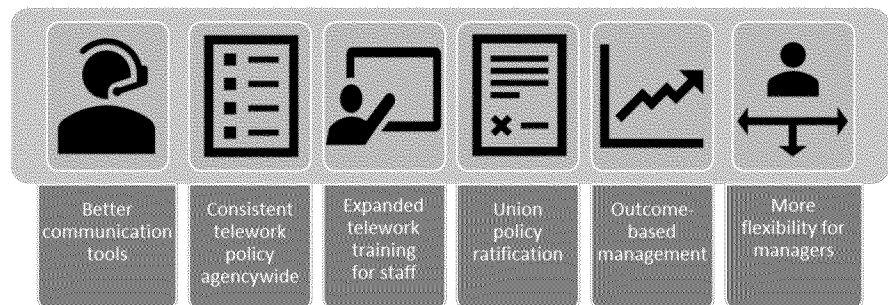


Operating efficiently and effectively

EPA Telework Program Is Consistent With U.S. Office of Personnel Management Guidance

Report No. 18-P-0024

October 16, 2017



Report Contributors:

Ming Chang
Dwayne Crawford
Andre von Hoyer II
Eric Lewis
Rodney Rice

Abbreviations

AFGE	American Federation of Government Employees
EPA	U.S. Environmental Protection Agency
OARM	Office of Administration and Resources Management
OIG	Office of Inspector General
OPM	U.S. Office of Personnel Management

Cover image: Possible telework program enhancements suggested by EPA managers and supervisors in an OIG-fielded survey. (EPA OIG)

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At a Glance

Why We Did This Review

We conducted this review to determine whether (1) U.S. Environmental Protection Agency (EPA) telework policies are consistent with U.S. Office of Personnel Management (OPM) guidance, (2) managers received the required training to supervise teleworking employees, and (3) managers know of and have access to teleworking tools.

The Telework Enhancement Act of 2010 supports the development and advancement of telework by outlining a number of requirements to ensure the appropriate policies and trained personnel are in place to achieve effective telework programs. The act directed OPM to provide agencies with policy and guidance for telework. OPM issued its guidance in 2011.

This report addresses the following:

- ☐ *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

EPA Telework Program Is Consistent With U.S. Office of Personnel Management Guidance

What We Found

EPA telework policies are consistent with OPM's guidance. We surveyed EPA managers and supervisors and found that 97 percent of respondents had received the required training to supervise their teleworking employees. The results of our evaluation showed that the EPA has implemented significant steps to ensure that those managers and supervisors who have not yet received the training come into compliance.

The EPA's telework policies have resulted in nearly all managers being trained to supervise their teleworking employees.

Our survey results also showed that EPA managers and supervisors use various agency-provided tools and methods to monitor the work accomplished by their teleworking staff, including work meetings, telephone calls, emails and business software. Some survey respondents also submitted written suggestions describing what additional training, tools and policies they believe are needed to improve the EPA's telework program. We grouped these suggestions into six categories of requested enhancements:

- ☐ Better communication tools.
- ☐ Consistent telework policy agencywide.
- ☐ Expanded telework training for staff.
- ☐ Need for American Federation of Government Employees policy ratification.
- ☐ Outcome-based management.
- ☐ More flexibility for managers.

In response to our discussion document, the Office of Administration and Resources Management provided a response to the six categories of program-enhancing suggestions submitted by EPA managers and supervisors. There are no recommendations in this report.




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

October 16, 2017

MEMORANDUM

SUBJECT: EPA Telework Program Is Consistent With
U.S. Office of Personnel Management Guidance
Report No. 18-P-0024

FROM: Arthur A. Elkins Jr. 

TO: Donna Vizian, Acting Assistant Administrator
Office of Administration and Resources Management

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this evaluation was OPE-FY16-0028. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

Because this report contains no recommendations, you are not required to respond to this report. Should you choose to provide a final response, we will post your response on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want released to the public; if your response contains such data, you should identify the data for redaction or removal along with the corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The purpose of this Office of Inspector General (OIG) evaluation was to assess the U.S. Environmental Protection Agency's (EPA's) compliance with and implementation of relevant telework policies and guidance issued by the U.S. Office of Personnel Management (OPM). Specifically, we evaluated whether:

- ☐ EPA telework policies are consistent with OPM guidance.
- ☐ EPA managers have received the required training to supervise their telework employees.
- ☐ EPA managers know of and have access to telework tools.

Background

Telework is a work arrangement that allows an employee to perform work at an approved alternate worksite during regular, paid hours. The Telework Enhancement Act of 2010 requires that the head of each executive agency establish a policy under which eligible employees of the agency may be authorized to telework. In addition, the act requires that a determination be made regarding which employees are eligible to telework and that all employees of the agency be notified of their eligibility. The act also supports the development and advancement of telework by outlining a number of requirements to establish appropriate support structures (such as policies) and capabilities (via training). Furthermore, the act directs OPM to assist executive agencies in developing telework programs and to provide guidance in numerous areas, including performance management. OPM issued a *Guide to Telework in the Federal Government* in April 2011 and provided telework training for federal employees and managers at www.telework.gov.

EPA Order 3110.32 establishes policy for the agency in accordance with the act. Revised April 3, 2017, EPA Order 3110.32 supports the use of telework and establishes the eligibility of employees to participate in telework based on two factors: the extent to which their work is portable and the employee eligibility requirements outlined in the policy. Because telework requires collaboration between management and employees, the policy states that both parties have responsibilities in its successful implementation and operation.

In addition, EPA Order 3110.32 specifies that an employee's participation in telework is voluntary and that teleworkers will receive the same treatment and opportunities as non-teleworkers (e.g., work assignments, awards and recognition, development opportunities, promotions, etc.). The act directs that teleworkers and non-teleworkers be treated the same for the following purposes:

- ☐ Performing periodic appraisals of job performance of employees.
- ☐ Training, rewarding, reassigning, promoting, reducing in grade, retaining and removing employees.

- ☐ Administering work requirements and other acts involving managerial discretion.

According to OPM, agencies should establish protocols, performance standards and expectations applicable to both in-office and telework employees. OPM states that a monitoring plan should not be so rigid as to hinder productivity and to create an environment of distrust.

The EPA's Office of Administration and Resources Management (OARM) is responsible for ensuring that the agency's telework policies are consistent with the Telework Enhancement Act and OPM guidance. In addition, OARM establishes agency telework training requirements. In June 2016, OARM issued a memorandum titled *Next Steps in Implementing EPA's Updated Telework Policy and Training*, which states that in-person, webinar and eLearning training courses are available and required for all managers and supervisors with teleworking employees.

The EPA has six telework policies: five bargaining unit policies and one non-bargaining unit policy.¹ The five bargaining unit policies are established with the following entities:

- ☐ Engineers and Scientists of California.
- ☐ National Association of Government Employees.
- ☐ National Association of Independent Labor.
- ☐ National Treasury Employee Union.
- ☐ American Federation of Government Employees (AFGE). AFGE does not have a current, ratified telework policy and works under its previous bargaining unit policy, titled *1998 Final American Federation of Government Employees National Collective Bargaining Agreement for Flexiplace*.

The non-bargaining unit policy is for all non-union employees, except those in the OIG, which has its own telework policy.² EPA employees may participate in telework subject to the limitations described in the Telework Enhancement Act and as defined by agency telework policies and applicable collective bargaining agreements.

¹ OARM managers stated that the EPA has a total of five unions and one non-bargaining unit and that they are required to collectively bargain on all agency policies.

² The OIG was not included in the scope of this review.

Responsible Office

The EPA's OARM manages the agency's telework program.

Scope and Methodology

We performed our work from August 2016 to June 2017. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To address our objectives, we reviewed applicable criteria and compared agency telework policies to OPM guidance. As directed by the act, OPM provided guidance for federal agencies regarding their responsibilities under the act for implementing telework programs. We compared OPM's 2011 guidance with key elements of the act to confirm they were aligned. We interviewed OARM staff; a representative from AFGE, which requested a meeting with the OIG on this assignment; and managers from OPM. In addition, we interviewed a regional EPA official who contacted us to provide perspective on telework management issues.

Using personnel data obtained from OARM, we fielded an electronic survey from November 9, 2016, through December 3, 2016, to 1,534 EPA headquarters and regional employees who either supervise or manage telework employees. We received 886 responses, a response rate of 58 percent.

Results of Evaluation

EPA's Telework Policies Are Consistent With OPM Guidance

All EPA telework policies are consistent with OPM guidance. The OIG identified the following key parameters of the agency's telework policies, which OPM confirmed are key elements in its *Guide to Telework in the Federal Government*:

- ☐ Establishment of a telework policy under which eligible employees of the agency may be authorized to telework.
- ☐ Determination of eligibility criteria for all agency employees to participate in telework.
- ☐ Development of mandatory telework training for designated managers and supervisors.

Telework Eligibility Factors Are Identified in EPA Policies

Employee eligibility criteria to participate in the telework program—including the following requirements—are established and included in all of the agency's telework policies:

- ☐ Supervisory approval.
- ☐ Work portability.
- ☐ Current performance rating of at least fully successful.
- ☐ Defined performance standards in place.
- ☐ Signed telework agreement.
- ☐ Appropriate work location/equipment.
- ☐ Ability to work independently.

EPA Has Established Mandatory Telework Training for Managers

OARM's June 2016 memorandum, *Next Steps in Implementing EPA's Updated Telework Policy and Training*, details the types of agency telework training available and establishes telework training as mandatory for supervisors and managers of teleworking employees.

Majority of EPA Managers Have Received Required Training

The agency's *Telework Training for Supervisors* is a 4-hour course designed for EPA supervisors and managers. The course teaches participants to accomplish the following objectives:

- ☐ Recognize the benefits and challenges of telework.
- ☐ Become a virtual leader.
- ☐ Determine telework agreements.
- ☐ Establish and manage accountability.
- ☐ Establish communication protocols.
- ☐ Develop work plans and tasks.
- ☐ Establish standards for providing feedback and updates on work products and projects.
- ☐ Determine telework collaboration and remote access tools.

Our survey of EPA headquarters and regional managers and supervisors showed that 97 percent of respondents stated they had received the training, while approximately 3 percent of respondents stated they had not received the training. In response to those managers and supervisors who stated that they had not received the training, OARM provided the following courses of action:

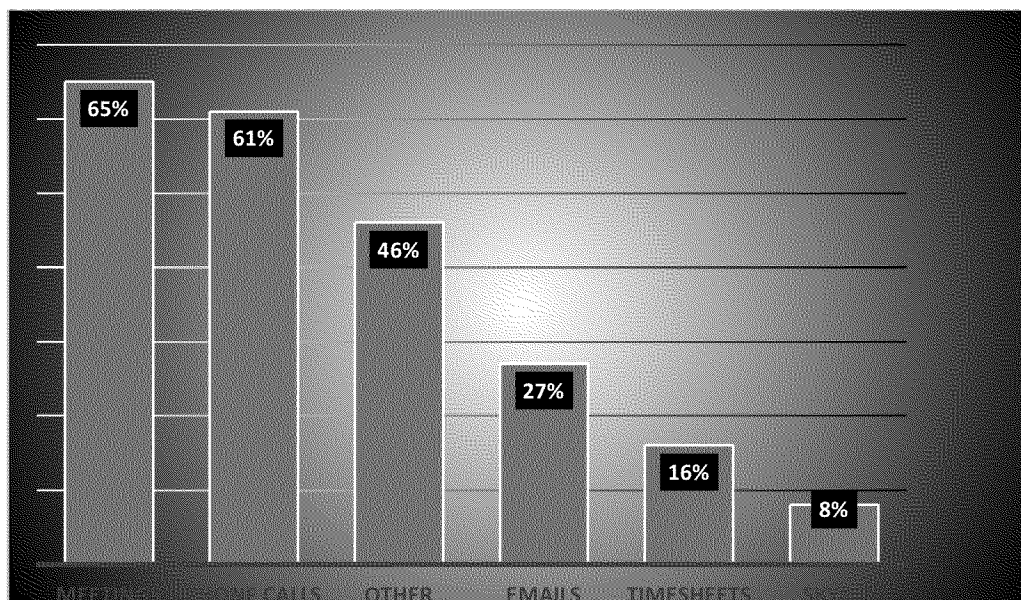
- ☐ Senior leaders from each program and regional office will ensure that all of their managers have completed the training.

- Deputy Assistant Administrators and Assistant Regional Administrators will receive individual office tracking reports that identify the managers and supervisors who have not completed the training. These officials will be strongly encouraged to ensure that all managers within their respective offices have completed the training.
- Regional Human Resources Officers and Program Management Officers will also receive these individual office tracking reports. These staff members will be asked to review the reports for accuracy and notify any managers listed in the reports that training must be completed.

EPA Managers Know of and Have Access to Telework Tools, and Provided Responses for Suggested Improvements

Our survey showed that EPA managers and supervisors have been using the following agency-provided tools and other methods to monitor work accomplished by their telework staff: a software application and online service that enables voice and video calls over the internet, such as Skype for Business;³ emails; telephone calls; work meetings; timesheets; monitoring workplans; tracking deliverables; and regular check-ins (Figure 1). Additionally, 84 percent of EPA managers and supervisors who responded to our survey considered the available telework management tools sufficient to oversee part-time telework staff.

Figure 1: Types of telework management tools used ^a



Source: OIG's 2016 telework survey of EPA managers and supervisors.

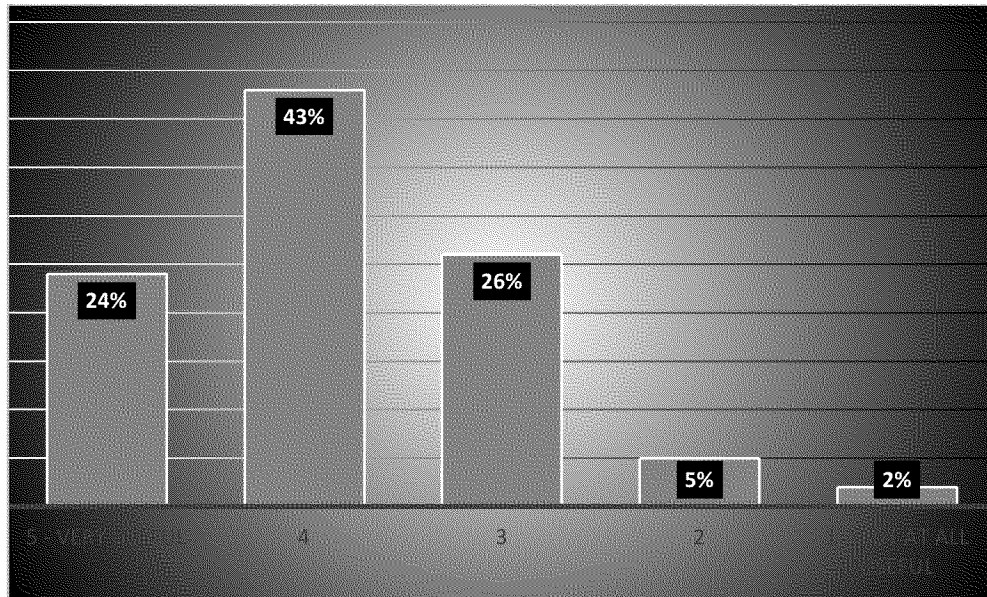
^a Since respondents provided multiple examples of telework management tools, the percentages in this graph total greater than 100%.

³ The use of product names in this report is only to illustrate survey responses and does not constitute the OIG's endorsement of these products.

EPA Managers Find Telework Policies Useful

Our survey results showed that, when asked about the usefulness of the EPA's telework policies, approximately two-thirds of the responses were above the midpoint (3) on a 5-point scale, where 1 is "not at all useful" and 5 is "very useful" (Figure 2).

Figure 2: Management perspectives regarding usefulness of telework policies



Source: OIG's 2016 telework survey of EPA managers and supervisors.

EPA Managers Provided Responses on Additional Improvements

Through the use of our survey instrument, we asked EPA managers and supervisors to submit written responses describing what additional training, tools or policies they believe are needed to improve the EPA's telework program. From the survey responses, we identified 428 suggestions for improvements.⁴ We characterized these suggestions into the following six categories shown in Table 1:

⁴ We reviewed all responses. Not every comment was germane or responsive to the OIG's request. We excluded all responses that were non-responsive to program enhancements for improving EPA's telework program. These exclusions included responses such as nothing, none and not sure, and those that were not germane or responsive to the question asked.

Table 1: Categories of program-enhancing suggestions submitted by managers and supervisors

Category	Percentage
Better communication tools	37
Consistent telework policy agencywide	27
Expanded telework training for staff	13
AFGE policy ratification	10
Outcome-based management	9
More flexibility for managers	4

Source: OIG's 2016 telework survey of EPA managers and supervisors.

Further analysis of the comments is in Appendix A.

Conclusions

We reached the following conclusions regarding the EPA's telework program:

- ☐ The EPA's telework policies are consistent with OPM guidance. The majority of agency managers and supervisors who responded to our survey believe the policies are also useful.
- ☐ Of the agency managers and supervisors who responded to our survey questions related to telework training, 97 percent indicated they had taken the required training. The EPA established controls to identify those who had not taken the training and encourage them to come into compliance with the agency's policies.
- ☐ EPA managers know of and have access to telework tools, and 84 percent believe the available telework management tools are sufficient to oversee part-time telework staff.

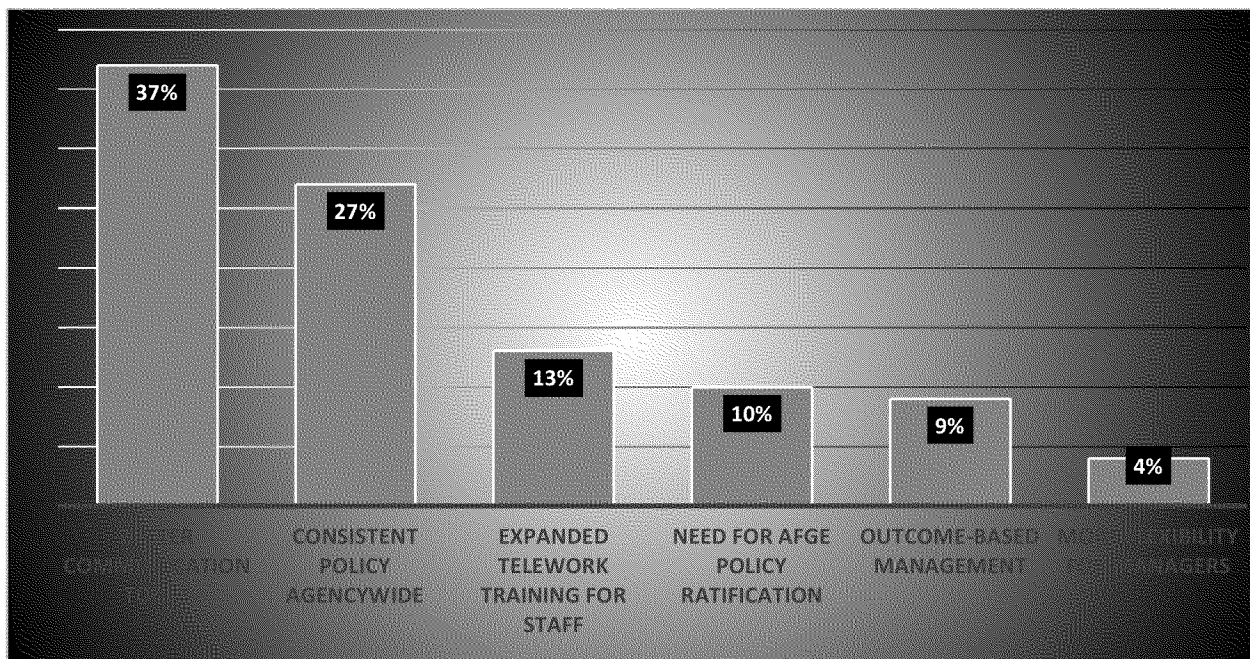
Agency Response and OIG Evaluation

We met with OARM staff and officials to discuss our results. In response to our discussion document, OARM provided a response to the six categories of program-enhancing suggestions submitted by EPA managers and supervisors. There are no recommendations in this report. No final agency response is required.

OIG Analysis of Written Comments Provided by EPA Managers and Supervisors

We administered our survey to EPA headquarters and regional employees who either supervise or manage telework employees. Our survey provided an opportunity for EPA managers and supervisors to submit responses describing what additional training, tools or policies they believe are needed to improve the EPA's telework program, as well as what methods they use to monitor work accomplished by their teleworking employees. We received 428 suggestions for improvements. We grouped these suggestions for improvements into six categories (Figure A-1).

Figure A-1: Categories of program-enhancing responses submitted by managers and supervisors



Source: OIG's 2016 telework survey of EPA managers and supervisors.

Better Communication Tools

Of the suggestions for improvement received, 37 percent expressed the need for better tools, equipment or facilities to facilitate seamless communication between management and employees in telework status. Specifically mentioned were the use of a software application and online service that enables voice and video calls over the internet; a web-based, collaborative platform for document management and storage systems, such as SharePoint; software used to create information and general presentations; online training materials; web conferencing; learning modules; user desktop sharing and video teleconferencing applications, such as Adobe Connect; telephone/video equipment; and improved remote-access laptops.

Consistent Policy Agencywide

Of the suggestions for improvement received, 27 percent expressed the need for a consistent, agencywide telework policy to ensure that it is applied the same to all employees. We found that, while each policy contained the main tenets of the OPM telework guidance, the unions have the right to bargain on the implementation of EPA policy. However, the telework training is the same regardless of the policy.

Expanded Telework Training for EPA Staff

Of the suggestions for improvement received, 13 percent expressed the need for more telework training. Some respondents were of the opinion that this training would inform employees of management expectations for employees in telework status.

Need for AFGE Policy Ratification

Of the suggestions for improvement received, 10 percent expressed the need for an AFGE telework agreement for their union employees. Some respondents believed that such an agreement would help facilitate seamless participation of union employees in the EPA's telework program.

Outcome-Based Management

Of the suggestions for improvement received, 9 percent expressed the need for more clearly defined expectations from both the employee and the manager or supervisor, more effective tracking of deliverables generated by employees while in telework status, more consistent ways to measure outcomes, or more support for managers and supervisors from all organizational levels.

More Flexibility for Managers

Of the suggestions for improvement received, 4 percent expressed the need for managers and supervisors to have more flexibility in documenting achievements by staff while in telework status. Specifically mentioned was assessing the productivity of employees when they are in telework status compared to when they are in the office. We reiterate however, that the act directs that teleworkers and non-teleworkers be treated the same for the purposes of administering work requirements. Furthermore, according to OPM, agencies should establish protocols, performance standards and expectations applicable to both in-office and telework employees.

OARM Response to Discussion Document

MEMORANDUM

SUBJECT: Response to the June 30, 2017, “Assessment of EPA Telework Policies and Tools” Discussion Document: Appendix A

FROM: Linda R. Gray, Director
Office of Human Resources

TO: Eric Lewis, Product Line Director
Special Program Reviews, Office of Program Evaluations
Office of Inspector General

On Thursday, July 27, 2017, Office of Human Resources personnel met with Office of Inspector General personnel regarding the OIG’s “Assessment of EPA Telework Policies and Tools” discussion document. The purpose of the meeting was to further clarify concerns with the Office of Administration and Resources Management’s July 14, 2017, response to the aforementioned document.

Appendix A of the document, entitled “OIG Analysis of Written Comments Provided by EPA Managers and Supervisors” identified the following six categories of program-enhancing comments submitted by managers and supervisors:

- ☐ The need for better communication and tools;
- ☐ A consistent agencywide policy;
- ☐ The need for expanded telework training for staff;
- ☐ The need to complete an agreement with the American Federation of Government Employees;
- ☐ The need for better outcome-based management; and
- ☐ The need for more flexibility for managers.

OHR personnel discussed in-depth the agency’s limitations with the recommendations as follows:

- ☐ The Office of Environmental Information is constantly working to improve the technology, resources and access for employees to be able to telework. However, for the majority of teleworkers, having access to a phone, internet, audio conference capabilities and a computer is sufficient to allow them to perform the majority of their work.
- ☐ In regards to a consistent policy, the agency’s ability to have one policy covering both bargaining and non-bargaining unit employees is significantly impacted by the unions’ right to bargain and enter into agreements covering their members. The agency has tried its best to ensure that agreements and the NBU policy are aligned.

- Employee telework training already covers expectations for teleworkers. If employees are not able to effectively telework, the NBU policy and all agreements allow for telework to be revoked. The agency's telework training modules for supervisors and employees are always available through the agency's eLearning site. Refresher training or reminders about telework expectations can be provided as needed by the supervisor, local telework coordinator or OARM.
- The agency is currently in negotiations with AFGE. The progress of negotiations is currently stalled given litigation issues regarding the negotiations; once the litigation issues are resolved, the agency will resume negotiations with AFGE.
- As previously communicated, the agency can take no action that would violate the *Telework Enhancement Act* which requires teleworkers and non-teleworkers to be treated the same for purposes including, but not limited to, performance management. Regarding outcome-based management, tracking deliverables and measuring outcomes of an employee's work is a supervisory responsibility that is applicable to all employees and not just those who telework. Similarly, teleworkers would be subject to different treatment if their supervisors were authorized to employ metrics in addition to those contained in the employee's performance plan as noted in the "more flexibility for managers" recommendation. However, through training on the agency's performance management and recognition program, supervisors can receive information on methods for consistently tracking deliverables and measuring outcomes for all employees.

I hope this information provides the clarity you requested in regards to OARM's July 14, 2017, response. If you have any questions or concerns about this matter, please contact: Debbi Hart, division director, Policy, Planning and Training Division, at hart.debbi@epa.gov or (202) 564-2011; or Krysti Corbett, division director, Labor and Employee Relations Division, at corbett.krysti@epa.gov or (202) 564-6295.

cc: Wesley Carpenter
 Debbi Hart
 Krysti Corbett
 Cheri Hembrey

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From: OIG News
Sent: Tue 7/18/2017 1:31:04 PM
Subject: OIG Report: "EPA Is Taking Steps to Improve State Drinking Water Program Reviews and Public Water Systems Compliance Data"
[epaoig_20170718-17-P-0326_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA Is Taking Steps to Improve State Drinking Water Program Reviews and Public Water Systems Compliance Data* (Report No. 17-P-0326). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Protecting America's Waters

EPA Is Taking Steps to Improve State Drinking Water Program Reviews and Public Water Systems Compliance Data

Report No. 17-P-0326

July 18, 2017



Report Contributors:

Kathlene Butler
Allison Dutton
Fred Light
Tim Roach
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Abbreviations

EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office
OIG	Office of Inspector General
OW	Office of Water
PWS	Public Water System
SDWA	Safe Drinking Water Act
SDWIS	Safe Drinking Water Information System

Cover photo: Georgia State Laboratory preparation of drinking water sample bottles to be sent to public water systems. (EPA OIG photo)

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At a Glance

Why We Did This Review

We conducted this review to evaluate how the U.S. Environmental Protection Agency (EPA) ensures that Safe Drinking Water Act (SDWA) primacy states—those states and territories granted primary responsibility for enforcement and implementation of SDWA—monitor and report drinking water sampling results from public water systems (PWSs). We also sought to determine how the EPA can improve its oversight of state drinking water sampling programs.

SDWA and its regulations require PWSs to routinely monitor and report drinking water quality. If a system does not monitor the quality of its water, consumers and primacy agencies cannot know whether the water meets health-based standards.

This report addresses the following EPA goals or cross-agency strategies:

- *Protecting America's waters.*
- *Launching a new era of state, tribal, local, and international partnerships.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

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EPA Is Taking Steps to Improve State Drinking Water Program Reviews and Public Water Systems Compliance Data

What We Found

The EPA primarily uses two oversight tools to determine whether PWSs are monitoring and reporting drinking water quality in accordance with SDWA:

- Program reviews of state drinking water programs, which may specifically include the assessment of monitoring and reporting issues.
- Compliance data updated by primacy states in the federal version of the Safe Drinking Water Information System.

The EPA is taking action to improve oversight tools used to determine whether public water systems are monitoring and reporting drinking water quality in accordance with the Safe Drinking Water Act.

We identified limitations to both tools. The program reviews did not exhibit the level of comprehensiveness and region-to-region consistency shown in previous data verifications. Also, there is the risk that states did not provide reliable information to the EPA data system on monitoring and reporting violations.

The EPA is currently taking action to address these limitations. Therefore, we make no recommendations. The agency confirmed the factual accuracy of our report and stated that the EPA remains committed to providing tools to enhance the nation's drinking water program. This report is closed upon issuance.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

July 18, 2017

MEMORANDUM

SUBJECT: EPA Is Taking Steps to Improve State Drinking Water Program Reviews and
Public Water Systems Compliance Data
Report No. 17-P-0326

FROM: Arthur A. Elkins Jr.

TO: Michael H. Shapiro, Acting Assistant Administrator
Office of Water

Lawrence Starfield, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this evaluation was OPE-FY16-0032. This report contains findings that describe the issues the OIG has identified; however, based on the EPA's ongoing actions to address these issues, this report contains no recommendations for further action. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

Because this report contains no recommendations, you are not required to respond to this report. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Purpose

The purpose of this review was to evaluate how the U.S. Environmental Protection Agency (EPA) ensures that Safe Drinking Water Act (SDWA) primacy states monitor and report drinking water sampling results from public water systems (PWSs), as well as to determine how the EPA can improve its oversight of state drinking water sampling programs.

Background

SDWA and its regulations require PWSs to routinely monitor drinking water quality and report the results to the state for evaluation.¹ If a system does not monitor the quality of its water, consumers cannot know whether the water arriving at their taps meets health-based standards. For example, a lapse in effective monitoring and reporting in Flint, Michigan, contributed to residents' prolonged exposure to lead-contaminated drinking water.

In 2016,² state drinking water agencies reported monitoring and reporting violations for about 19 percent of all PWSs (29,157 out of 151,137 systems). Of the 29,157 PWSs with monitoring and reporting violations, about 40 percent (11,721 PWSs) violated at least one monitoring and reporting requirement under the Total Coliform Rule in 2016. Total coliforms—a group of related bacteria—indicate the presence of other pathogens in drinking water, and monitoring for total coliforms provides important information about the adequacy of water treatment and integrity of the drinking water distribution system. A lapse in monitoring for total coliforms could inhibit identifying the risk of waterborne pathogens, such as bacteria and viruses, and their associated illnesses.

A 2016 *USA Today* investigative report found that some 4 million Americans receive water from small operators who skipped required drinking water tests or did not conduct the tests properly violating a cornerstone of federal safe drinking water laws.³

States and territories largely serve as the drinking water program administrators, where the EPA has granted them primary enforcement authority under SDWA.⁴ These states and territories are known as “primacy agencies.” The EPA retains

¹ Per the National Primary Drinking Water Regulations, a PWS provides water for human consumption through pipes or other constructed conveyances to at least 15 service connections or regularly serves an average of at least 25 people daily for at least 60 days a year.

² The EPA's official timeframe for 2016 includes information submitted between July 1, 2015, and June 30, 2016.

³ Ungar, Laura and Nichols, Mark, “4 million Americans could be drinking toxic water and would never know,” *USA Today*, 13 December 2016.

⁴ Per SDWA, “primacy” is granted to states that adopt regulations at least as stringent as national requirements, develop adequate procedures for enforcement (including conducting monitoring and inspections), adopt authority for administrative penalties, and maintain records and make reports as the EPA may require.

overall responsibility for the national implementation of SDWA and oversees state administration and enforcement.

States are required to enter monitoring and reporting violations into the Safe Drinking Water Information System (SDWIS) databases.⁵ The violations in SDWIS represent the cases in which the EPA knows that PWSs did not collect samples or did not report on time. EPA staff can monitor these systems, review violations, and offer support to improve PWS performance. However, if states do not consistently identify monitoring and reporting lapses or do not issue monitoring and reporting violations, no lapses would be reported to the EPA via SDWIS. In these cases, states and the EPA cannot use their existing data systems to identify PWSs that require correction. This lack of information also masks risks to human health.

State involvement varies for assisting PWSs with their monitoring and reporting activities. Some state regulators maintain websites with sampling schedules, while some use automated reminder phone calls to alert PWS staff that it is time to collect a required monitoring sample. Other state regulators send drinking water sampling bottles along with instructions to PWS staff to assist them with collecting samples and returning them within the time permitted. In some states, state staff or contractors collect water samples from PWSs.

The EPA engages in regular oversight of primacy agencies, both during annual PWS supervision reviews and in-depth periodic program reviews. In these program reviews, the EPA selects and reviews state files and identifies discrepancies, including matters concerning compliance with regulatory requirements, such as sampling schedules and quantities. Prior to 2013, the EPA conducted program reviews in each state every 3 to 4 years using a contractor, who evaluated the implementation of National Primary Drinking Water Regulations. The EPA referred to these contractor-led reviews as data verifications. According to EPA staff, these data verification reviews ended when funding ceased, at which point EPA staff assumed the program review function.

Responsible Offices

The EPA's Office of Water (OW), Office of Enforcement and Compliance Assurance, and regional offices are responsible for the oversight of primacy states' implementation of drinking water programs.

Scope and Methodology

We conducted our review from September 2016 to May 2017. We conducted this performance audit in accordance with generally accepted government auditing

⁵ Primacy states are required to provide to SDWIS timely, accurate and complete data on inventory, violations and enforcement. The states may do this through the "SDWIS-State" software or through submission of files through the State-EPA Exchange Network to "SDWIS-Fed," which the EPA uses to track violations.

standards. Those standards require that we obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our objectives.

We reviewed SDWA, various rules under the National Primary Drinking Water Regulations, and EPA guidance on conducting program reviews. We sought information through an Office of Inspector General (OIG) questionnaire sent to all 10 EPA regions to determine their key oversight tools to monitor state drinking water programs. We reviewed six state data verifications (Arkansas, Georgia, Minnesota, North Dakota, Pennsylvania and Rhode Island) completed in 2012, as that was the last year that the EPA had funds available for the contractor. All six data verifications contained assessments of the states' implementation of the eight rules with monitoring and reporting requirements (Table 1).

Table 1: National Primary Drinking Water Regulations included in the 2012 data verifications
1. Total Coliform Rule
2. Phase II/V (including Nitrate) Rule
3. Lead and Copper Rule
4. Ground Water Rule
5. Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rule
6. Radionuclides Rule
7. Surface Water Treatment Rules (including Interim and Long Term 1 Enhanced Surface Water Treatment)
8. Public Notice Rule

Source: OIG analysis.

We obtained 12 program reviews conducted by EPA staff between 2012 and 2016 from the EPA regions we interviewed (Regions 3, 4, 5 and 6), a program review we had access to from a prior evaluation (Kansas), and a program review from Region 9 for national comparison purposes. We evaluated program reviews from Alabama, California, Florida, Georgia, Kansas, Kentucky, Louisiana, Maryland, North Carolina, Ohio, South Carolina and Texas. To evaluate the comprehensiveness of the reviews, we compared whether the eight rules included in the data verifications were also assessed in the program reviews.

We interviewed EPA OW and Office of Enforcement and Compliance Assurance staff. Additionally, we interviewed drinking water staff in EPA Regions 3, 4, 5 and 6. We interviewed Georgia's drinking water program and state laboratory staff to understand their policies and procedures. We also interviewed various non-governmental organizations to gain their perspective on state drinking water programs and PWSs.

Results of Evaluation

The EPA primarily uses two oversight tools to determine whether PWSs are monitoring and reporting drinking water quality in accordance with SDWA:

- Program reviews of the state drinking water programs. These reviews may specifically include the assessment of monitoring and reporting issues.
- Compliance data updated by primacy states in SDWIS-Fed.

We identified limitations to both tools. The program reviews did not exhibit the level of comprehensiveness and region-to-region consistency shown in previous data verifications. Also, there is the risk that states did not provide reliable information to the EPA data system on monitoring and reporting violations. Without reliable, consistent information about drinking water monitoring and reporting violations, the EPA may not have the information it needs to manage a nationally consistent drinking water oversight program. During our evaluation, the EPA identified steps underway to improve the limitations we observed for both oversight tools.

EPA Is Working to Improve Program Reviews

The EPA engages in regular oversight of primacy agencies, both during annual PWS supervision reviews and in-depth program reviews. Our review showed that the program reviews lacked the national comprehensiveness once provided by data verifications.

We found that program reviews vary by region. We reviewed 12 program reviews and found that most of the reviews did not cover all of the eight rules with monitoring and reporting requirements. We found that seven of the 12 program reviews included fewer than half of the rules (Alabama, California, Florida, Georgia, Kentucky, Maryland and North Carolina). For example, Region 3 evaluated only one drinking water rule—the Lead and Copper Rule—during its review of Maryland’s program. Two program reviews for Ohio and South Carolina addressed at least half—but not all—of the eight rules. Only Regions 6 and 7 evaluated all eight rules during their program reviews of Kansas, Louisiana and Texas.

To address the lack of consistency and comprehensiveness of program reviews, OW is taking a number of steps. According to EPA staff, since OW lost funding for data verifications, program reviews are conducted with limited regional resources and expertise. In 2013, OW established a national workgroup that developed and disseminated guidance for conducting program reviews to regional staff. In 2015, OW developed a document outlining “quickly accessible rule references” for regional staff to use during on-site reviews. OW updated this document in 2016. Since 2014, OW has held at least 13 training sessions or

lessons-learned meetings on program review protocol, and OW staff stated they plan to continue with a quarterly national training plan for regional personnel.

EPA Is Working to Improve the Accuracy and Reliability of Data

Primacy states are required to report drinking water data periodically. The data are maintained in SDWIS-Fed. OW's fiscal year 2016–2017 *National Water Program Guidance* describes how OW will work with states, territories and tribal governments to assure high quality and accessible water information:

Accurate, complete, and transparent system performance data is essential in understanding how the nation's PWSs are faring in meeting the expectation of delivering high quality safe drinking water to consumers.⁶

Based on conversations with EPA regional and headquarters staff, there is a risk that some primacy states are not entering monitoring and reporting violations data into SDWIS-Fed as required. A 2011 U.S. Government Accountability Office (GAO) report⁷ supports this. The GAO report found that SDWIS data from states did not reliably reflect the frequency of monitoring violations at community water systems.⁸ In its fiscal year 2016 Federal Managers' Financial Integrity Act Assurance Letter, OW assessed the risk associated with states not having enough resources to maintain reporting requirements and determined that it posed a low-level risk to information in SDWIS-Fed.

The EPA is taking steps to improve data quality. The EPA has begun updating SDWIS through its development of SDWIS Prime, which OW senior leaders say will allow electronic verification of data and incorporate data quality functions. The EPA anticipates launching SDWIS Prime in 2018.

In addition, OW released the Compliance Monitoring Data Portal in September 2016. OW managers said the portal will enable PWSs and laboratories to report drinking water data electronically to primacy agencies. The first state to use the portal was Utah, in March 2017, and EPA staff anticipate that five additional states will begin using the portal by the end of 2017. They anticipate this system will lead to fewer reporting errors, improved data quality, and reduced time needed to report state data to the EPA.

OW personnel said that primacy agencies' adoption of both the Compliance Monitoring Data Portal and SDWIS Prime will be voluntary. The EPA anticipates

⁶ EPA OW, *FY 2016–2017 National Water Program Guidance*, EPA 420-R-15-008, April 2015.

⁷ GAO, *Drinking Water: Unreliable State Data Limit EPA's Ability to Target Enforcement Priorities and Communicate Water Systems' Performance*, GAO-11-381, June 2011.

⁸ The GAO report defined monitoring violations to include a variety of situations, ranging from instances in which a water system did not do required monitoring, did not report the results to the state on time, or did not issue public notices of a health-based violation in a timely fashion.

that both new data systems will improve the accuracy and reliability of drinking water data reported to the EPA. Because OW and states have not fully implemented these two tools, the OIG could not review the adequacy of their oversight capabilities.

Conclusion

Our review identified limitations to the EPA's oversight tools that impede the agency's ability to conduct consistent oversight of the national drinking water program and reduce the reliability of EPA monitoring and reporting data. However, the EPA is engaged in ongoing activities to address these limitations. Although we cannot yet determine the outcomes for these ongoing agency actions, based on the agency's engagement to correct the issues we identified, we make no recommendations.

Agency Response and OIG Evaluation

On June 23, 2017, OW provided its response to our draft report. OW confirmed the factual accuracy of our report and stated that it remains committed to providing tools to enhance the nation's drinking water program. Appendix A contains OW's response to our draft report.

Agency Response to Draft Report

(Received June 23, 2017)

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Project No. OPE-FY16-0032, “EPA is Taking Steps to Improve Consistency of State Drinking Water Program Reviews and Public Water System’ Compliance Data,” dated May 24, 2017

FROM: Michael H. Shapiro /s/
Acting Assistant Administrator

TO: Carolyn Copper
Assistant Inspector General
Office of Program Evaluation

Thank you for the opportunity to review the subject audit report. The Environmental Protection Agency has worked closely with the EPA’s Office of Inspector General to provide detailed information regarding the implementation of the drinking water program via a series of conference calls, and the Agency provided several technical comments and clarifications on previous draft versions of the report. The IG has taken into consideration our recommendations and these are reflected in the most recent draft version of the report the IG shared with the EPA.

AGENCY’S OVERALL POSITION

The EPA works collaboratively with primacy agencies to provide oversight and assistance in the implementation of the National Primary Drinking Water Regulations. Primacy Agencies are facing resource and technical challenges associated with implementing regulations that address over 90 contaminants for approximately 153,000 public water systems nationwide. In addition, the water sector is facing increasing challenges associated with unregulated contaminants, aging infrastructure, and extreme weather events, as well as flat or diminishing resources. The EPA continues to provide important support for the implementation of primacy agency drinking water programs through both the Public Water System Supervision program, the Drinking Water State Revolving Fund set-asides and via our training, technical assistance and oversight efforts. The EPA is committed to continuing to provide tools that will modernize management of drinking water data, such as the recent release of the Compliance Monitoring Data Portal to support electronic reporting, and the updated Safe Drinking Water Information System (SDWIS Prime) in 2018. The EPA will also continue to enhance our oversight tools such as primacy program file reviews, to ensure we are able to identify the state’s training and technical assistance needs.

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

The EPA welcomes the IG's recommendations on potential improvements to this program in an effort to enhance the nation's drinking water program, and we confirm the factual accuracy of all aspects of the draft report.

cc: Peter Grevatt
Anita M. Thompson
Maria A. Lopez Carbo

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To: Bloom, David[Bloom.David@epa.gov]
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From: Wong, Lela
Sent: Fri 10/6/2017 2:52:27 PM
Subject: Amended Notification Memo--Audit of EPA's Adherence to Policies, Procedures and Oversight Controls Pertaining to the Administrator's Travel
[Amended Notification Memo for Audit of Administrator's Travel Issued 10.5.17.docx](#)

Good Morning Mr. Bloom,

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) plans to expand the scope of preliminary research on the EPA's adherence to policies, procedures and oversight controls pertaining to the Administrator's travel, which was originally focused on his travel to Oklahoma through July 31, 2017. The scope of our review is expanded to include all travel by the Administrator through September 30, 2017. The attached memorandum provides additional information on this project.

If you have any questions, please contact my Director John Trefry at (202) 566-2474 or trefry.john@epa.gov, or my Project Manager Angela Bennett at (404) 562-9844 or bennett.angela@epa.gov.

Thanks!

Lela Wong



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

October 5, 2017

MEMORANDUM

SUBJECT: Amended Project Notification:
Audit of EPA's Adherence to Policies, Procedures and Oversight Controls
Pertaining to the Administrator's Travel
Project No. OA-FY17-0382

FROM: John Trefry, Director, Forensic Audits
Office of Audit

TO: David Bloom, Acting Chief Financial Officer

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) plans to expand the scope of preliminary research on the EPA's adherence to policies, procedures and oversight controls pertaining to the Administrator's travel, which was originally focused on his travel to Oklahoma through July 31, 2017. The scope of our review is expanded to include all travel by the Administrator through September 30, 2017. Our revised objectives will be to determine the following:

- The frequency, cost and extent of the Administrator's travel through September 30, 2017.
- Whether applicable EPA travel policies and procedures were followed for Administrator Pruitt's travel, as well as other EPA staff and security personal traveling with or in advance of Administrator Pruitt.
- Whether EPA policies and procedures are sufficiently designed to prevent fraud, waste and abuse with the Administrator's travel.

To accomplish these objectives, we will review supporting documentation and conduct interviews with management and staff to determine whether the EPA followed applicable policies and practices, and complied with federal requirements. The OIG plans to work with the EPA's Cincinnati Finance Center and the Office of the Chief Financial Officer to obtain needed information. Applicable generally accepted government auditing standards will be used in conducting our work. The anticipated benefits of this project are to improve operational efficiency.

We will contact the audit coordinator to arrange a mutually agreeable time to discuss our revised objectives. We would also be particularly interested in any areas of concern that you may have. We will answer any questions you may have about the project process, reporting procedures, methods used to

gather and analyze data, and what we should expect of each other during the course of the project. Throughout the project, we will provide updates on a regular basis through a monthly meeting or via email, phone or video conference.

We respectfully note that the OIG is authorized by the Inspector General Act of 1978 to have timely access to personnel and all materials necessary to complete its objectives. We will request your resolution if an agency employee or contractor refuses to provide requested records to the OIG, or otherwise fails to cooperate with the OIG. We may report unresolved access matters to the Administrator and include the incident in the Semiannual Report to Congress.

I will supervise the project and the Project Manager will be Angela Bennett. Should you or your staff have any questions, please contact me at (202) 566-2474 or trefry.john@epa.gov, or Angela Bennett at (404) 562-9844 or bennett.angela@epa.gov.

cc: Scott Pruitt, Administrator
Ryan Jackson, Chief of Staff
Henry Darwin, Chief of Staff for Operations
Kevin Chmielewski, Deputy Chief of Staff for Operations
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Liz Bowman, Associate Administrator for Public Affairs
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Richard Eyermann, Deputy Inspector General for Audit
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To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
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From: OIG News
Sent: Thur 10/5/2017 1:30:22 PM
Subject: OIG Report: "Analysis of Toxics Release Inventory Data Identifies Few Noncompliant Facilities"
[epaoig_20171005-18-P-0001_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Analysis of Toxics Release Inventory Data Identifies Few Noncompliant Facilities* (Report No. 18-P-0001). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



*Ensuring the safety of chemicals
Compliance with the law*

Analysis of Toxics Release Inventory Data Identifies Few Noncompliant Facilities

Report No. 18-P-0001

October 5, 2017



Report Contributors:

Bakari Baker
Alisha Chugh
Steve Hanna
Tina Lovingood

Abbreviations

CFR	Code of Federal Regulations
DMR	Discharge Monitoring Report
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
FRS	Facility Registry Service
ICIS	Integrated Compliance Information System
NPDES	National Pollutant Discharge Elimination System
OCSPP	Office of Chemical Safety and Pollution Prevention
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
OLEM	Office of Land and Emergency Management
RMP	Risk Management Plan
TRI	Toxics Release Inventory

Cover photo: Image of a 2005 fire at EQ Resource Recovery Inc. in Romulus, Michigan.
(EPA photo)

Are you aware of fraud, waste or abuse in an EPA program?

EPA Inspector General Hotline
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At a Glance

Why We Did This Review

We conducted this review to determine how the U.S. Environmental Protection Agency (EPA) uses Toxics Release Inventory (TRI) data to identify potentially noncompliant facilities in its major regulatory programs.

Businesses that manufacture, process or otherwise use large volumes of listed chemicals and meet other conditions file TRI reports with the EPA. TRI reports include the quantitative releases of chemicals to air, water and land. The TRI also reports the maximum amount of chemicals on-site at any one time during the calendar year. Analysis of TRI data can be used to identify potentially noncompliant facilities (non-filers) in other EPA regulatory programs, such as the Risk Management Program (RMP), and surface water dischargers regulated under the National Pollutant Discharge Elimination System (NPDES).

This report addresses the following:

- *Ensuring the safety of chemicals.*
- *Compliance with the law.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

List of [OIG reports](#).

Analysis of Toxics Release Inventory Data Identifies Few Noncompliant Facilities

What We Found

While using data analytics can be resource-intensive when comparing data on facilities across different EPA programs, this approach can enhance environmental protection by identifying facilities that are potentially noncompliant with EPA reporting requirements. We reviewed data from three EPA programs and identified potentially noncompliant facilities by analyzing cross-program data, as follows:

- **RMP**—We identified potential RMP non-filers based on TRI chemical and volume data. During the course of our review, the EPA implemented its 3-year review of non-filers, which identified potential non-filers for follow-up by EPA regions. So far, EPA regions have found very few actual non-filers.
- **TRI**—We identified some potential non-filers from the chemical manufacturing industry based on RMP chemical and volume data. The EPA recently completed a review of 2011–2015 data to identify TRI non-filers from RMP data and found only 4 percent to be actual non-filers.
- **NPDES**—We obtained potential NPDES non-filers from the EPA Discharge Monitoring Report (DMR) Pollutant Loading Tool. We reviewed the largest dischargers, accounting for 99 percent of the non-filer discharges. We found NPDES permits for some but were unable to complete a review of all due to a lack of specific discharger address information.

Noncompliance among facilities that must comply with multiple environmental laws or programs can be reduced by making minimal enhancements to EPA reporting software.

Based on the OIG's work during this review, TRI program staff implemented enhancements to the TRI reporting software. This enhancement informs potential non-filers about their potential RMP requirements if they file TRI reports over the threshold of an RMP chemical. Further, TRI program staff also modified the software to notify dischargers to surface water of the need for an NPDES permit. EPA RMP program staff have committed to making similar enhancements to RMP filing software to inform RMP filers of their potential TRI reporting requirements.

Recommendations and Planned Agency Corrective Actions

We recommend that EPA (1) clarify limitations to public NPDES data in the DMR Pollutant Loading Tool, and (2) after the implementation of mandatory electronic DMRs, review the usefulness of the data in the DMR Comparison Dashboard for identifying possible unpermitted surface water dischargers using TRI data, and modify as appropriate. The recommendations are resolved with agreed-to actions pending.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

October 5, 2017

MEMORANDUM

SUBJECT: Analysis of Toxics Release Inventory Data Identifies Few Noncompliant Facilities
Report No. 18-P-0001

FROM: Arthur A. Elkins Jr.

TO: Lawrence Starfield, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this evaluation was OPE-FY16-0021. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The Office of Enforcement and Compliance Assurance is responsible for enforcing the nation's environmental laws, including the Clean Air Act, Clean Water Act, and Emergency Planning and Community Right-to-Know Act, and is responsible for implementing the recommendations in this report. In addition, the Office of Chemical Safety and Pollution Prevention is responsible for the Toxics Release Inventory program, the Office of Land and Emergency Management is responsible for the Risk Management Plan program, and the Office of Water is responsible for the National Pollutant Discharge Elimination System.

Action Required

The agency agreed with the recommendations and provided planned corrective actions and completion dates; the recommendations are resolved with agreed-to actions pending. Therefore, the agency is not required to provide a written response to this final report. Please update the EPA's Management Audit Tracking System as you complete the planned corrective actions for the two recommendations. Please notify my staff if there is a significant change in the agreed-to corrective actions. Should you choose to provide a response to this final report, we will post your response on the OIG's public website, along with our memorandum commenting on your response. You should provide your response as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended.

We will post this report to our website at www.epa.gov/oig.

cc: Nancy Beck, Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention
Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management
Michael Shapiro, Acting Assistant Administrator, Office of Water

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Chapter 1

Introduction

Purpose

The Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) conducted this evaluation to determine how the EPA uses Toxics Release Inventory (TRI) data to identify potentially noncompliant¹ facilities in EPA regulatory programs. The OIG addressed the following questions:

- Have TRI facilities meeting Risk Management Plan (RMP) criteria filed these plans with the EPA for all chemicals?
- Have RMP filers and surface water dischargers subject to TRI reporting filed TRI reports?
- Have TRI facilities identified as surface water dischargers received the required permits from the EPA or the delegated state?

Background

Generally, facilities subject to environmental regulation are required to self-identify by filing specific required documents with the EPA, or face possible enforcement action. Examples of facilities subject to environmental regulation include point source water discharger facilities subject to the National Pollutant Discharge Elimination System (NPDES) program, facilities subject to the RMP, and facilities required to report TRI chemicals. Facilities that have not filed specific required documents are referred to as non-filers. Facilities that are subject to regulation but operate without regulatory controls can contribute to human and environmental exposure to contaminants.

Toxics Release Inventory

Section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) created the TRI. Under EPCRA, facilities must file TRI reports (specific required documents) with the EPA if the following conditions are in place:

- The facility is in a specific industry sector required to file.
- The facility has 10 or more full-time equivalent employees.

¹ The project notification memo referred to “unregulated” instead of “noncompliant” facilities. At the suggestion of agency staff, “noncompliant” is now used instead of “unregulated” throughout the report.

- The facility manufactures or processes more than 25,000 pounds or otherwise uses more than 10,000 pounds of a listed chemical. (Persistent, bioaccumulative toxic chemicals have lower reporting thresholds.)

TRI reports filed with the EPA include the quantity of each chemical released to air, water and land. Information reported also includes the maximum amount of the chemical on-site at the facility during the reporting year. Since the TRI collects information on environmental releases, the TRI program can be used to identify non-filers in other EPA programs.

Information from TRI reports informs the public about facility releases of toxic chemicals; assists research; and aids in the development of regulations, guidelines and standards. The current TRI toxic chemical list contains 595 chemicals and 32 chemical categories, many of which are also regulated by the agency's RMP program. The TRI also collects information on discharges to surface water. Many TRI chemicals are also listed as acute hazardous wastes under the Resource Conservation and Recovery Act.

Risk Management Program

Pursuant to Section 112(r) of the Clean Air Act, and the RMP regulation (40 CFR Part 68), owners or operators of facilities holding more than a threshold quantity of a regulated substance in a process must file an RMP (specific required document) with the EPA identifying the chemical, its volume and the process. Further, RMPs must be revised and resubmitted to the EPA every 5 years. The information that facilities provide in their RMPs helps local fire, police and emergency response personnel prepare for and respond to chemical emergencies.

According to the agency, RMPs should include a hazard assessment that details the potential effects of an accidental release, an accident history of the last 5 years, and an evaluation of worst-case and alternative accidental releases. Current RMP-regulated chemicals include 77 acutely toxic substances and 63 flammable gases or highly flammable liquids.

National Pollutant Discharge Elimination System

The NPDES program was created in 1972 by the Clean Water Act and regulates point sources that discharge pollutants to waters of the United States. Any discharger to waters of the United States must obtain an NPDES permit from the EPA or a state authorized to implement the NPDES program. An NPDES permit generally specifies an acceptable level of a pollutant or pollutant parameters that may be discharged into a receiving water under certain conditions. Permits include limits on what a facility can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or human health. Dischargers submit discharge monitoring data to their permitting authority using the Discharge Monitoring Report (DMR) forms.

Facilities report pollutant discharge monitoring data in their DMR as a mass quantity and/or concentration amount.

Discharge Monitoring Report Pollutant Loading Tool

According to the EPA, the DMR Pollutant Loading Tool² is designed to determine “who is discharging, what pollutants they are discharging and how much, and where they are discharging.” The DMR Pollutant Loading Tool calculates pollutant loadings from NPDES permit and DMR data obtained from the EPA’s Integrated Compliance Information System (ICIS) for the NPDES. Data have been available since 2007. Users can search TRI data to find facilities with the largest pollutant discharges to surface waters or sewage treatment plants. The tool documents the DMR data as follows:

The Clean Water Act requires all point source dischargers to obtain a NPDES permit, and report compliance with NPDES permit limits via monthly DMRs submitted to the permitting authority. The permitting authority then enters the reported DMR data into ICIS-NPDES, including pollutant concentration and quantity values and identification of any types of permit violations.

Emergency and Hazardous Chemical Inventory Program

Hazardous chemical inventory reporting under EPCRA Section 312 is used for emergency planning and response. Under EPCRA Section 312, facilities with hazardous chemical quantities that equal or exceed the threshold must file forms (specific required documents) with their State Emergency Response Commission, Local Emergency Planning Committee and fire department. These forms—known as Tier I or Tier II forms—include information on the chemical, volume and location on-site. Tier I forms include more information by hazard category on the maximum amount of all hazardous chemicals on-site during the preceding year, an estimate of the average daily amount by hazard category, and the general location at the facility. Tier II forms include the same information as in the Tier I form, but also include chemical-specific information. The combination of RMP, TRI, and Tier II information equips emergency response personnel with enhanced knowledge necessary to properly respond to a chemical-related disaster at a facility.

Responsible Offices

The EPA’s Office of Enforcement and Compliance Assurance (OECA) is responsible for enforcing the nation’s environmental laws, including the Clean Air Act, the Clean Water Act, and EPCRA. The Office of Pollution Prevention and Toxics within the Office of Chemical Safety and Pollution Prevention is

² This tool is available to the public on the EPA’s [DMR Pollutant Loading Tool webpage](#). The tool uses DMR data from the EPA’s ICIS-NPDES to calculate pollutant discharge amounts.

responsible for the TRI program. The Office of Emergency Management within the Office of Land and Emergency Management is responsible for the RMP program. The Office of Wastewater Management within the Office of Water is responsible for the NPDES program.

Scope and Methodology

We conducted our work from April 2016 to July 2017. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The 2014 TRI data reviewed were the most current data available at the time of our review. We obtained the data via the TRI EZ Query, which was used to identify potentially noncompliant facilities in other regulatory programs. We also completed data analyses using several EPA online databases, including the EPA's RMPInfo on the EPA's intranet, as well as the [DMR Pollutant Loading Tool](#) and the [Facility Registry Service](#)³ websites. We reviewed applicable portions of the Clean Water Act, NPDES regulations in 40 CFR Part 122, the Clean Air Act, EPCRA, and the RMP regulation in 40 CFR Part 68.

We interviewed EPA staff and management in OECA, the Office of Emergency Management, and the Office of Pollution Prevention and Toxics. We also interviewed RMP staff in all EPA regions, and interviewed water staff in Regions 4, 5 and 8 to discuss TRI facilities that potentially discharge to surface waters without an NPDES permit. We interviewed staff from two TRI reporting facilities, along with EPA Region 5 staff, to identify issues with hydrogen sulfide reporting.

Prior Reports

- EPA OIG [Report No. 09-P-0092](#), *EPA Can Improve Implementation of the Risk Management Program for Airborne Chemical Releases*, was issued February 10, 2009. The purpose of this report was to assess the EPA's implementation and oversight of the RMP program. Among other findings and recommendations, this report recommended that the EPA incorporate TRI and other effective methodologies into guidance for EPA regions to use to identify potential non-filers. All recommendations have been implemented.

³ The EPA's Facility Registry Service (FRS) integrates facility data from the EPA's regulatory systems, as well as data from other federal, state and tribal systems. FRS provides the ability to identify environmental regulatory programs that may regulate a given facility.

- EPA OIG Report No. 12-P-0376, *Early Warning Report: Use of Contractors to Conduct Clean Air Act Risk Management Program Inspections in Certain States Goes Against Court Decisions*, was issued March 28, 2012. This report found that two EPA regions had used contractors to conduct RMP inspections despite court decisions and EPA policy prohibiting this practice. The EPA developed corrective actions that have been implemented.
- EPA OIG Report No. 13-P-0178, *Improvements Needed in EPA Training and Oversight for Risk Management Program Inspections*, was issued March 21, 2013. The purpose of this report was to determine whether the EPA has adequate management controls for ensuring the effectiveness of its program inspections. The report recommended that the EPA strengthen its management controls to ensure that inspectors and supervisors meet minimum training requirements, strengthen guidance to include a minimum inspection scope for RMP facilities, and develop minimum inspection reporting requirements and a monitoring program to assess the quality of inspections. The EPA developed corrective action plans to address the recommendations, and the plans have been completed or are underway.

Chapter 2

TRI and RMP Data Can Identify Potential Non-Filers, but Few Are Actually Noncompliant

While using data analytics can be resource-intensive when comparing data on facilities across different EPA programs, this approach can enhance environmental protection by identifying facilities that are potentially noncompliant with EPA reporting requirements. We reviewed data from three EPA programs and identified potentially noncompliant facilities by analyzing cross-program data, as follows:

- **RMP**—We identified potential RMP non-filers based on TRI chemical and volume data. During the course of our review, the EPA implemented its 3-year review of non-filers, which identified potential non-filers for follow-up by EPA regions. So far, EPA regions have found very few actual non-filers.
- **TRI**—We identified some potential non-filers from the chemical manufacturing industry based on RMP chemical and volume data. The EPA recently completed a review of 2011–2015 data to identify TRI non-filers from RMP data and found only 4 percent to be actual non-filers.
- **NPDES**—We obtained potential NPDES non-filers from the EPA’s DMR Pollutant Loading Tool. We reviewed the largest dischargers, accounting for 99 percent of the non-filer discharges. We found NPDES permits for some but were unable to complete a review of all due to lack of specific discharger address information.

Based on the OIG’s work during this review, TRI program staff implemented enhancements to the TRI reporting software. This enhancement informs potential non-filers about their potential RMP requirements if they file TRI reports over the threshold of an RMP chemical. Further, TRI program staff also modified the software to notify dischargers to surface water of the need for an NPDES permit. EPA RMP program staff have committed to making similar enhancements to RMP filing software to inform RMP filers of their potential TRI reporting requirements.

Follow-Up of Potential Non-Filers Identifies Few Noncompliant Facilities

The OIG identified hundreds of potential RMP non-filers based on analysis of 2014 TRI data. EPA efforts,⁴ conducted during the course of this project, also found hundreds of potential RMP non-filers. The EPA distributed lists of potential non-filers to EPA regions for follow-up compliance and enforcement actions. The EPA's results so far indicate few actual non-filers (only four of 563).

Similar to the identification of RMP non-filers using TRI data, potential TRI non-filers can also be identified using RMP data. To evaluate the utility of using RMP data to identify TRI non-filers, we analyzed data for toxic chemicals regulated by both RMP and TRI programs. For this analysis, we focused on facilities categorized in the chemical manufacturing sector of the North American Industry Classification System (code 325). We identified about 8 percent potential TRI non-filers. The EPA recently completed a review of 2011 through 2015 data to identify TRI non-filers from RMP data, and found only 4 percent to be actual non-filers.

While review of TRI and RMP data identifies many potential non-filers, very few of these have been confirmed as actual noncompliant facilities. Further, these follow-up efforts have been characterized by EPA staff as resource-intensive.

Potential RMP and NPDES Non-Filers Are Now Informed Through Changes in the TRI Filing Software

During the course of this review, the OIG suggested to TRI program staff at EPA headquarters that they could include a warning in the TRI filing software to alert TRI filers about potentially being subject to RMP reporting if their maximum amount on-site exceeds the RMP threshold. The TRI program implemented this change for the 2016 reporting year by incorporating a notice in the filing software when a chemical exceeds the RMP threshold.

The TRI program also modified the filing software to identify the existence of NPDES permits on file for TRI facilities reporting discharges to surface water and, if one is not found, to remind the facility of the NPDES permit requirement.

The EPA indicated it will evaluate its 3-year assessment following implementation of the notifications to potential RMP filers in the TRI software, to determine whether the software solutions obviate the need for the 3-year assessment.

⁴ The EPA's 2010 policy on identifying RMP non-filers requires the agency to review data every 3 years. The policy states the following: "At least once every three years, EPA will conduct a search for potential RMP non-filers by comparing the list of current RMP facilities in the agency's jurisdiction against the most recent available TRI and EPCRA Tier II databases, or by using other appropriate methods. EPA will use any additional data sources available in order to improve the likelihood of identifying RMP non-filers. After developing a list of potential non-filers, EPA will resolve each facility's status by investigating whether the facility is subject to 40 CFR Part 68."

OECA Has Developed Mechanisms to Identify Potential Unpermitted Discharges to Surface Water, but Data Quality Issues Limit Value

Through its DMR Pollutant Loading Tool, the TRI and the DMR Comparison Dashboard, the EPA has taken steps to compare and present wastewater discharge data from the ICIS-NPDES and TRI databases. We obtained potential NPDES non-filers from the EPA's DMR Pollutant Loading Tool. We reviewed the largest dischargers, accounting for 99 percent of the non-filer discharges. We found NPDES permits for some, but were unable to complete a review of all due to lack of specific discharger address information.

As a result, the TRI and the DMR Comparison Dashboard have limited utility for identifying possible surface water dischargers that lack an NPDES permit. Data do not allow the EPA to efficiently determine the status of compliance, either with DMR reporting or NPDES permitting. Attempting to manually match an NPDES facility to a TRI facility is resource-intensive and inexact without specific discharger address information in the DMR Pollutant Loading Tool.

According to OECA staff, an upcoming electronic reporting rule will require mandatory electronic reporting of DMRs, including information such as facility permit identifications and addresses. We conclude that use of the dashboard to identify possible unpermitted dischargers to surface water should be enhanced with more complete electronic DMR data reported. This should also allow for greater use of data analytics in matching between NPDES and TRI data.

OECA Should Clarify TRI and DMR Comparison Dashboard Data

While OECA has taken important steps to develop the DMR Comparison Dashboard, the dashboard in its current form is limited for decision-making. Specifically, it is unclear whether these TRI facilities with discharges to surface waters (1) have not filed a DMR because they are operating without an NPDES permit; (2) have an NPDES permit but have not filed a DMR as required; or (3) according to OECA staff, are not required to file a DMR, such as in the case of stormwater dischargers. We conclude that the DMR dashboard in its current form has limited value without the appropriate caveats. The dashboard does not effectively identify unpermitted dischargers to surface water based on TRI data.

TRI Non-Filers Not Identified From DMR Data

From the TRI and DMR Comparison Dashboard, we downloaded NPDES facilities in TRI industries with no TRI forms to identify potential TRI non-filers. However, we found that, without chemical and discharge volume information, the data were not usable. Analysis of a subset of these facilities with large discharges of TRI chemicals revealed all had filed TRI forms.

Conclusions

Comparing data among the TRI, RMP and DMR reporting systems using data analytics, manual comparisons and follow-up can identify potential non-filers (potentially noncompliant facilities), and therefore help ensure that reported facilities are appropriately regulated. However, EPA staff have stated that these methods are resource-intensive, and the results identify few noncompliant facilities. Effective use of some DMR data is limited because poor data quality can erroneously identify potential non-filers.

Enhancements to reporting software will inform facilities of other EPA program responsibilities, which should reduce noncompliance. The implementation of regulation-required electronic reporting should improve DMR data quality, which should help address current limitations associated with identifying DMR and TRI non-filers using the DMR Pollutant Loading Tool.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

1. Clarify EPA public information presented in the Toxics Release Inventory and the Discharge Monitoring Report Comparison Dashboard by including qualifiers that explain the limitations of the analysis based on data quality issues.
2. After the implementation of mandatory electronic Discharge Monitoring Reports, review the usefulness of the Discharge Monitoring Report Comparison Dashboard for identifying possible unpermitted surface water dischargers using Toxics Release Inventory data, and modify as appropriate.

Agency Response and OIG Evaluation

Recommendations 4 and 5 from the draft report addressed to OECA have been renumbered Recommendations 1 and 2. OECA provided corrective action plans and milestone dates that meet the intent of all the recommendations. The recommendations are resolved with agreed-to actions pending.

The acting Assistant Administrator for the EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) provided a response for itself, and on behalf of OECA and EPA regions. OCSPP stated that it shares the OIG's interest in improving the way data are used to identify non-compliant facilities. Based on review of the results of potential TRI non-filers based on RMP data, we agree with OCSPP that modification of the RMP software to notify potential TRI non-filers should assist facilities in identifying their potential TRI reporting requirements. The

Office of Land and Emergency Management (OLEM) has committed to incorporating this software modification into the RMP reporting software. We make no formal recommendations to OCSPP.

In response to the draft report, the acting Assistant Administrator for OLEM provided the results of its 3-year review of potential RMP non-filers from TRI data, and stated that determining whether a potential non-filer is an actual non-filer is a labor-intensive process. Based on further discussions with OLEM and review of the results of the 3-year assessment, we agreed with OLEM that the TRI software modifications to notify potential RMP non-filers should assist facilities in identifying their potential RMP reporting requirements. The EPA indicated it will evaluate its 3-year assessment following implementation of the notifications to potential RMP filers in the TRI software, to determine whether the software solutions obviate the need for the 3-year assessment. We make no formal recommendations to OLEM.

Appendix A contains the combined OCSPP/OECA response to our draft report, while Appendix B contains the OLEM response. We reviewed the agency's technical comments and revised the report as appropriate.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	9	Clarify EPA public information presented in the Toxics Release Inventory and the Discharge Monitoring Report Comparison Dashboard by including qualifiers that explain the limitations of the analysis based on data quality issues.	R	Assistant Administrator for Enforcement and Compliance Assurance	1/31/18	
2	9	After the implementation of mandatory electronic Discharge Monitoring Reports, review the usefulness of the Discharge Monitoring Report Comparison Dashboard for identifying possible unpermitted surface water dischargers using Toxics Release Inventory data, and modify as appropriate.	R	Assistant Administrator for Enforcement and Compliance Assurance	6/30/18	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

OCSPP and OECA Response to Draft Report

(Dated August 14, 2017)

MEMORANDUM

SUBJECT: Response to Draft Report entitled “EPA Could Better Use Toxic Release Inventory Data to Identify Potentially Unregulated Facilities and Protect Human Health,” Project No. OPE-FY16-0021

FROM: Wendy Cleland-Hamnett, Assistant Administrator (Acting)
Office of Chemical Safety and Pollution Prevention (OCSPP)

TO: Arthur A. Elkins, Inspector General

Thank you for the opportunity to comment on the OIG’s July 14, 2017 Draft Report entitled “EPA Could Better Use Toxic Release Inventory Data to Identify Potentially Unregulated Facilities and Protect Human Health.” Providing the public with data and information of optimal quality is a high priority of the Agency. OCSPP appreciates the evaluation conducted by your office, and its recommendations.

OCSPP shares the OIG’s interest in improving the way TRI, RMP and DMR data are used to identify facilities that may be non-compliant. During the OIG evaluation, TRI Program managers and staff consulted with OIG staff on ways in which the RMP, NPDES, and TRI programs should interact. As recognized in the Draft Report, the TRI Program has already incorporated checks in its TRI-MEweb reporting software to alert TRI facilities of possible NPDES and RMP reporting requirements. The TRI Program has also reached out to the RMP Program within EPA’s Office of Emergency Management (OEM) in OLEM to suggest that the RMP Program incorporate similar feedback alerts in their materials with regard to TRI reporting obligations.

In addition, as part of its data quality activities, the TRI Program compares TRI data with other EPA datasets⁵, to identify facilities that may be noncompliant with the TRI reporting requirements. The TRI Program distributes lists of these identified facilities to EPA regional offices and to OECA for further follow up. Generally, however, OECA and the TRI Program have observed that the success rate for using RMP data to identify facilities that are not compliant with the TRI reporting requirements is low when compared to the success rate garnered by using other data sources.⁶

⁵ Such as the National Emissions Inventory (NEI), Chemical Data Reporting (CDR), DMR, RMP, and non-EPA datasets such as Tier II data.

⁶ Such as the NEI, for example.

This memorandum details the responses of the OCSPP, the Office of Enforcement and Compliance Assurance (OECA), and EPA regions to the Draft Report's recommendations relating to the TRI program. The Office of Land and Emergency Management (OLEM) will provide a separate response that covers OLEM's and any regional comments focused on RMP.

In addition, we have attached a Technical Comments document, which provides minor corrections and editorial comments related to the TRI program, from OCSPP, OECA, and the regional offices.

OCSPP and OECA Responses to Recommendations:

Recommendation 1: The Assistant Administrator for Chemical Safety and Pollution Prevention and the Assistant Administrator for Land and Emergency Management [should] develop a mechanism to annually identify potential RMP non-filers by using an automated comparison of TRI and RMP data, and distribute the data to EPA regions for review. This effort should include facilities that do not file RMPs, and facilities that have not listed chemicals in their RMPs.

OCSPP will defer to OLEM on the feasibility and usefulness of developing an automated process to identify specific facilities that have reported to TRI to ascertain whether these facilities are complying with RMP reporting requirements.

As of May, 2017, OCSPP has already taken a preventative approach to improving compliance with the RMP reporting requirements. Starting with Reporting Year 2016 (for which TRI reporting forms were due by July 1, 2017), the TRI Program incorporated checks in its TRI-MEweb reporting software to alert TRI facilities that they may be required to file RMP (and NPDES) reports. Facilities may elect to respond to these alerts, and the TRI Program has shared with the RMP Program all responses related to RMP reporting. Preliminary results from TRI reports submitted for 2016 have shown that most facilities have indicated that they did file an RMP report, though a portion of facilities do provide reasons for why they did not trigger RMP reporting.

Recommendation 2: After completion of recommendation 1, [the Assistant Administrator for Chemical Safety and Pollution Prevention and the Assistant Administrator for Land and Emergency Management should] eliminate the 3-year review of TRI data to identify non-filers.

OCSPP will defer to OLEM on the elimination of the 3-year review of TRI data to identify potential RMP non-filers.

Recommendation 3: The Assistant Administrator for Chemical Safety and Pollution Prevention [should] develop a mechanism to annually identify potential TRI non-filers by using an automated comparison of RMP and TRI data.

OCSPP agrees with this recommendation and will take corrective action as described below to implement it. As described above, each year the TRI Program conducts data quality outreach. This outreach recently included a comparison of facilities that filed

RMP reports with facilities that filed TRI reports for reporting years 2011-2015, to identify facilities that may be non-compliant with the TRI reporting requirements. Results from this comparative analysis of TRI and RMP filers indicate about 4 percent non-compliance with the TRI reporting requirements by those facilities that did not file a TRI report for the 2011, 2012, 2013, 2014 or 2015 reporting years. Nonetheless, OCSPP will assess the feasibility and practical utility of developing an automated process of using RMP information to identify facilities that may be non-compliant with the TRI reporting requirements by September 30, 2018.

In the same way that OCSPP's modifications to the TRI-MEweb software now alert facilities that they may need to file an RMP report and help prevent non-compliance with RMP reporting, OCSPP believes that a similar proactive approach could be implemented by OLEM that would help to ensure facilities comply with the TRI reporting requirements.

OIG Response 1: Recommendation modified to address only the modification of the RMP submittal software to warn facilities of their potential TRI reporting responsibilities.

Recommendation 4: The Assistant Administrator for Enforcement and Compliance Assurance [should] clarify the information presented in the Toxics Release Inventory and Discharge Monitoring Report Comparison Dashboard by including qualifiers that explain the limitations of the analysis based on data quality issues.

OECA will work with the TRI Program to write qualifiers that clarify the information in the Toxics Release Inventory and ECHO's (Enforcement Compliance History Online) Discharge Monitoring Report Comparison Dashboard. The qualifiers will explain the limitations of the analysis based on data quality issues and will be posted on the site by January 31, 2018.

Recommendation 5: After the implementation of mandatory electronic Discharge Monitoring Reports, [the Assistant Administrator for Enforcement and Compliance Assurance should] review the value of the Discharge Monitoring Report Dashboard to identify possible unpermitted surface water dischargers using Toxics Release Inventory data.

After full implementation of mandatory electronic Discharge Monitoring Reports, OECA will review the value of the Toxics Release Inventory and ECHO's Discharge Monitoring Report Comparison Dashboard in identifying possible unpermitted surface water dischargers using Toxics Release Inventory data. OECA will share its written review with the Office of Water (OW) and the TRI Program by June 30, 2018.

Thank you for your recommendations. We look forward to continuing to improve the consistency and completeness of reported data across all EPA programs and the use of TRI data to further this goal.

cc: Carolyn Copper, OIG
Tina Lovingood, OIG
Steve Hanna, OIG
Jeff Morris, OPPT
Barbara Cunningham, OPPT
Tanya Mottley, OPPT
Janet Weiner, OCSP
John Latham, OPPT
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Kecia Thornton, OLEM

OLEM Response to Draft Report

(Dated August 8, 2017)

MEMORANDUM

SUBJECT: Response to Draft Report: EPA Could Better Use Toxic Release Inventory Data to Identify Potentially Unregulated Facilities and Protect Human Health Project No. OPE-FY16-0021

FROM: Barry N. Breen
Acting Assistant Administrator

TO: Carolyn Copper, Assistant Inspector General
Office of Inspector General

Thank you for the opportunity to review and comment on the Draft OIG Evaluation Report, “EPA Could Better Use Toxic Release Inventory Data to Identify Potentially Unregulated Facilities and Protect Human Health”. The Office of Land and Emergency Management (OLEM) has completed its review and does not concur with the proposed recommendations specific to OLEM. Additionally, we have made several specific editorial comments on the factual accuracy and content in the draft report, which we have included in the attached copy of the report.

This is the second time that the Office of Inspector General (OIG) has conducted an evaluation of the EPA Risk Management Program that focused on identification of RMP “non-filers” – facilities that were required to submit risk management plans and comply with the requirements of 40 CFR part 68 but failed to do so. In 2009, OIG conducted an evaluation that used Toxic Release Inventory (TRI) data to identify 39 “potential” RMP non-filers. Based on this finding, OIG recommended that EPA strengthen its controls to identify RMP non-filers, and the Office of Land and Emergency Management (OLEM, previously the Office of Solid Waste and Emergency Response) subsequently implemented a policy to search for RMP non-filers every three years.

Upon investigating OIG’s 2009 list of “potential” RMP non-filers, EPA determined that *none of the potential non-filers were subject to the RMP rule*. This fact was raised with the OIG auditors on several occasions throughout their evaluation, including during the opening and closing meetings on July 26, 2016, February 9, 2017 and May 23, 2017, however, it does not seem to have been incorporated in this evaluation and report. It performs a surface-level comparison of the TRI and RMP databases to develop a list of “...*Hundreds of Potential RMP Non-Filers With Millions of Pounds of Potentially Unreported Chemicals.*” (emphasis in original). However, as detailed in our specific comments below, the actual results are virtually the same as in 2009. Very few of OIG’s “potential” RMP non-filers have been found to be actual RMP non-filers.

Therefore, OLEM non-concurs with the recommendations in the report pertaining to RMP and, as explained below, disagrees with a number of the findings and conclusions.

OIG Finding: OIG’s draft report states, “Most EPA Regions Do Not Use Annual TRI Data to Identify Potential RMP Non-Filers.”

OLEM disagrees with this finding. In February 2009, OIG published its evaluation report, “EPA Can Improve Implementation of the Risk Management Program for Airborne Chemical Releases” (Report No. 09-P-0092). The report recommended, among other things, that the Agency strengthen its controls to identify facilities that did not file Risk Management Plans (RMPs). Specifically, the OIG report recommended that EPA:

- Revise Headquarters operating guidance to specify how often the regions should conduct reviews to identify non-filers, and establish milestones for reviewing and removing inactive facilities from the RMP National Database,
- Incorporate the Toxic Release Inventory (TRI) search methodology and other effective methodologies used by EPA regions into the new Headquarters guidance for regions to use in identifying potential non-filers...”

Accordingly, in June 2010, OLEM’s Office of Emergency Management (OEM) and OECA issued a policy memorandum entitled “Identification of Facilities Subject to 40 CFR Part 68.” That memorandum requires EPA to implement the following policy for identification of RMP non-filers:

- At least once every three years, implementing agencies shall conduct a search for potential RMP non-filers by comparing the list of current RMP facilities in the agency’s jurisdiction against the most recent available TRI and Emergency Planning and Community Right-to-Know (EPCRA) Tier II databases, or by using other appropriate methods. Implementing agencies are encouraged to use any additional data sources available in order to improve the likelihood of identifying RMP non-filers. After developing a list of potential non-filers, implementing agencies shall resolve each facility’s status by investigating whether the facility is subject to 40 CFR Part 68.
- Where implementing agencies identify RMP non-filers, the agency shall take action as appropriate in accordance with applicable implementing agency policy.

In 2013-2014, EPA conducted its RMP non-filer review using the Department of Homeland Security’s (DHS) Chemical Facility Anti-Terrorism Standards (CFATS) Top-Screen database, instead of using TRI data. EPA chose this approach as a result of Executive Order 13650, *Improving Chemical Facility Safety and Security*, which presented a unique opportunity for EPA access to DHS’ data. This review met EPA’s policy because the policy allows for EPA to use “other appropriate methods” of identifying non-filers.

In 2016, EPA initiated its second non-filer review under the 2010 policy. This review, which is still in progress, uses the Agency’s TRI database to identify potential RMP non-filers. In August 2016, OEM conducted a preliminary analysis of the most recent TRI database to identify potential non-filers, and distributed the resulting list of facilities to all 10 Regions for follow-up. Therefore, all 10 EPA Regions are actively involved in using TRI data, and other appropriate data sources, to attempt to identify RMP non-filers.

In contrast to an earlier draft of this report, OIG has added the word “Annual” to this finding statement: “Most EPA Regions Do Not Use *Annual* TRI Data to Identify Potential RMP Non-Filers” (emphasis added). OLEM’s response to the earlier draft included the same information provided above, indicating that all EPA Regions use TRI (and other available) data triennially to search for RMP non-filers. As this EPA policy was a direct result of OIG’s 2009 recommendation, and was a policy response which OIG concurred with, we are unclear on what support is in the record for the OIG to now recommend a different policy without sufficient evaluation of EPA’s current policy. OIG provides no reason for why EPA should change the frequency of non-filer reviews from triennial to annual. OLEM disagrees that annual non-filer reviews are better, as our experience has demonstrated that using TRI data is a very inefficient and ineffective method of identifying RMP non-filers. OIG acknowledges this point in its draft report: “According to EPA staff, preliminary results for four EPA regions found only four actual non-filers out of 141 investigated. In light of these results, alternate methods of identifying potential non-filers may be warranted.” (OIG draft report, page 8). Nonetheless, OIG in the end recommends increases in the frequency of RMP non-filer reviews from triennially to annually. We do not find analytical support for how performing this process more frequently is an appropriate and fiscally responsible use of EPA limited resources, given the ineffectiveness it has shown to date.

OIG Response 2: This information in the report has been deleted. Based on OLEM’s non-filer review results, we deleted the recommendations.

OIG Finding: OIG’s discussion document states, “OIG Identified Hundreds of Potential RMP Non-Filers with Millions of Pounds of Potentially Unreported Chemicals.”

OLEM disagrees with this statement because it misleadingly overstates the likely end result of OIG’s non-filer review. If followed, EPA could use resources ineffectively.

OIG Response 3: This is no longer a subheading.

For example, in its 2009 evaluation, OIG used TRI data to identify 39 facilities in four states (Colorado, North Carolina, Pennsylvania, and Texas) with RMP-listed chemicals that, according to the facility’s TRI submission, may have been held on-site in quantities exceeding RMP thresholds for the substance. According to OIG, staff in the regions that cover these facilities were able to provide additional information indicating that 14 of the 39 facilities were likely not RMP non-filers. The remaining 25 facilities – located in Pennsylvania and Texas – required further EPA follow-up. This process often involved EPA contacting the facility and collecting more information to determine whether or not it was actually subject to the RMP regulation.

However, EPA determined that *none of these facilities were subject to the RMP rule*. EPA Region 3 confirmed that none of the unresolved facilities in Pennsylvania were subject to the RMP rule⁷. In Region 6, although OIG had only looked for non-filers (using TRI data) in Texas, in response to the OIG evaluation report, EPA Region 6 conducted a comparison of TRI and

⁷ Memo from Joan Armstrong, Chief, Oil & Prevention Branch, Region III, to Kim Jennings, Associate Director, Regulatory and Policy Development Division, Office of Emergency Management, of December 8, 2009.

RMP data for facilities in all Region 6 states, and based on that comparison, identified over 250 potential RMP non-filers in Region 6. Using other information already available to the Region, staff were able to exclude 172 facilities as not being subject to the RMP rule. The remaining 78 facilities required further investigation by the Region. Consequently, Region 6 sent letters to all 78 facilities, requiring that the owner or operator either provide further information to explain why the facility was not subject to the RMP rule, or pay a penalty to EPA for failing to submit an RMP. 77 of the 78 facilities responded with information substantiating that they were not subject to the RMP rule⁸. Only 1 out of 250 facilities identified as potential non-filers by EPA Region 6 was determined to be an actual RMP non-filer. That facility was located in Arkansas⁹.

In EPA's ongoing review, we are seeing similar results. In 2016, OEM compared the 2014 TRI database to the RMP national database, and extracted a nationwide list of TRI facilities that reported RMP-regulated substances within their TRI submission in quantities exceeding applicable RMP thresholds. OEM sent these potential non-filers to each Regional Office, and asked each office to further investigate the facilities in their region to determine whether or not any of them were actually subject to the RMP regulation. While not all regions have completed their investigation of these potential RMP non-filers, among those that have, very few RMP non-filers have been identified. The following table indicates the results obtained to date:

Results of 2016-17 RMP Non-Filer Review

EPA Region	Potential RMP Non-Filers Identified Based on Initial Comparison to TRI Data ¹⁰	Actual RMP Non-Filers Identified
1	14	0
2	30	0
3	67	0*
4	110	1 ^{11*}
5	131	2*
6	75	-- ⁺
7	37	1*
8	25	0*
9	50	0
10	24	0
Totals	563	4*

* Indicates some potential non-filers are still being evaluated by the Regional Office

⁺ Data currently unavailable

⁸ Region 6 112(r) Non-filer Initiative presentation, Stacey B. Dwyer, May 2010.

⁹ The single non-filer facility identified by Region 6 was Tate and Lyle Ingredients Americas Inc., an ingredient manufacturing company in Van Buren, Arkansas.

¹⁰ Potential RMP non-filers included facilities that, according to their TRI submission, held at least one RMP chemical where the minimum of the TRI quantity range was greater than the RMP threshold quantity for that chemical.

¹¹ Region 4 located one additional non-filer from a secondary list of potential non-filers, which included facilities that reported holding RMP chemicals where the minimum of the TRI quantity range was greater than or equal to the RMP threshold quantity for that chemical.

These results also reflect EPA's prior experience in using TRI data to identify RMP non-filers, including the results of OIG's own 2009 evaluation.

OIG Response 4: The information in the report has been updated to reflect the results of OEM's non-filer analysis.

There are at least several reasons that comparing TRI and RMP filings is a relatively ineffective method of discovering RMP non-filers.¹² These include the following:

- **TRI and RMP have different minimum concentration criteria for many chemicals.** For some substances that are common to both the RMP and TRI chemical lists, both rules do not cover substance mixtures or solutions where the substance is present below 1% concentration (under TRI, this is referred to as the "de minimis concentration"). However, for other substances, the de minimis concentration under TRI is different from the minimum reportable concentration under the RMP rule. For example, for 24 substances on both the RMP and TRI lists, the TRI de minimis concentration is 0.1%, but the RMP minimum concentration is 1%. Additionally, the RMP rule specifies much higher minimum concentration cutoffs than TRI for several substances, including aqueous ammonia (20%), hydrochloric acid (37%), hydrofluoric acid (50%), and nitric acid (80%). Due to these differences in regulatory coverage criteria, many facilities that report more than RMP threshold quantities of one or more of these substances in their TRI submission are not subject to the RMP rule if they hold the substances below the applicable RMP concentration cutoff.
- **TRI submissions consider the maximum quantity on site, while RMP submissions consider the quantity contained in a "process."** In order to be covered under the RMP rule, a facility must have a "process" containing more than a threshold quantity of a regulated substance. The term "process" means "any activity involving a regulated substance including any use, storage, manufacturing, handling, or on-site movement of such substances, or combination of these activities. For the purposes of this definition, any group of vessels that are interconnected, or separate vessels that are located such that a regulated substance could be involved in a potential release, shall be considered a single process." Under this definition, if a facility has several separate areas for storing, manufacturing, or using chemicals, but no single area contains more than a threshold quantity of a regulated substance, the facility is not subject to the RMP rule. The TRI rule, on the other hand, requires facilities to report the "Maximum amount of the toxic chemical on-site at any time during the calendar year." Therefore, the TRI database contains some facilities that hold threshold quantities of RMP substances on a site-wide basis, but not in a single process. These facilities are not subject to the RMP rule.
- **Some TRI facilities erroneously report emissions quantities as bulk storage quantities.** Some facilities appear to erroneously report very large "Maximum amount on site" quantities of RMP-covered substances on their TRI submission, but the

¹² For these same reasons, the statement on page 11 of the OIG draft report: "Simple queries may readily identify both TRI and RMP non-filers, by reviewing first-time filers in each program" is misleading. Simple queries only readily identify *potential* RMP non-filers, but, as shown by both the 2008-2009 and 2016-2017 non-filer reviews, nearly all potential non-filers identified using such queries will not be actual RMP non-filers.

substance is not actually held on site above an RMP threshold quantity at any one time. For example, EPA has identified numerous examples of facilities reporting combustion byproducts, such as hydrofluoric and hydrochloric acid, above RMP threshold quantities in section 4.1 of Form R. Only when EPA contacts or visits the facility does it become apparent that these substances are not actually being held on site above an RMP threshold.

- **Some TRI chemicals are found in RMPs under the label “flammable mixture.”** Some toxic chemicals covered under TRI are listed as flammable substances under RMP. Where these substances are present as part of flammable mixtures (for example, at a petroleum refinery), the entire mixture can be reported in the RMP database under the name “flammable mixture.” While a comparison of the TRI and RMP databases for one of these substances may appear to identify an RMP non-filer, in some cases these facilities have in fact submitted an RMP for a flammable mixture containing the named flammable substance.

Thus, comparing TRI and RMP databases is at best an inefficient method for identifying RMP non-filers, and it is often completely ineffective. The first phase of this method – which involves the initial comparison of TRI and RMP databases to identify potential non-filers (i.e., the phase that OIG has performed now on two occasions) – is relatively easy, but by itself, extremely inaccurate, resulting in a very high number of false positives (i.e., in reality almost all “potential” non-filers are not actual non-filers).

However, determining whether or not a “potential” non-filer is an actual non-filer is a labor-intensive process, as it often requires the Regional Office to correspond with individual potential non-filer facilities. Resolving some of these cases requires Regions to prepare official correspondence, such as information request letters issued under EPA’s Clean Air Act Section 114 information collection authority. In some cases, it may be necessary to visit the facility to perform an inspection. And in the great majority of cases, as indicated above, these potential non-filers turn out not to be actual RMP non-filers. Conducting this type of extensive effort with little useful result takes valuable resources away from inspecting high risk RMP facilities to ensure they are operating safely and protecting the surrounding local community from the consequences of accidental chemical releases.

Unsupported Conclusion: OIG’s conclusion states, “Comparing data among the TRI, RMP and DMR reporting systems using data analytics can identify potential non-filers (unregulated facilities), and enhance human health and environmental protection, transparency and accountability by ensuring that reported facilities are appropriately regulated. However, effective use of some of the data is limited because poor data quality can erroneously identify potential non-filers, and manual comparisons are resource-intensive.”

OLEM disagrees with this conclusion, as it relates to the RMP program. Although this conclusion lumps TRI, RMP, and DMR reporting systems together, a full reading of the report indicates that OIG’s concerns over data quality may not actually pertain to TRI or RMP data quality; OIG has provided no evidence of poor data quality in the TRI or RMP programs. If it finalizes this report, OIG should clarify this in its conclusion. Also, as previously indicated, the

first step in identifying RMP non-filers using the “manual” method – i.e., by an analyst manually comparing the RMP and TRI databases to identify potential RMP non-filers – is not very difficult or time-consuming; thus automating this process will not yield significant benefits to EPA.

OIG Response 5: The conclusion has been restated to clarify that the data quality reference refers to DMR data, and that manual comparisons and follow-up are labor-intensive.

OIG Recommendations: OIG’s Recommendations to OLEM state: “We recommend that the Assistant Administrator for Chemical Safety and Pollution Prevention, and the Assistant Administrator for Land and Emergency Management:

1. Develop a mechanism to annually identify potential Risk Management Plan non-filers by using an automated comparison of Toxic Release Inventory and Risk Management Plan data, and distribute the data to EPA regions for review. This effort should include facilities that do not file Risk Management Plans, and facilities that have not listed chemicals in their Risk Management Plans.

2. After completion of Recommendation 1, eliminate the 3-year review of Toxic Release Inventory data to identify non-filers.”

OLEM non-concurs with these recommendations as they pertain to OLEM. OIG’s preferred approach – to replace a triennial non-filer review initiated by a manual comparison of databases with an annual approach initiated by an automated data comparison – addresses only the front end of the non-filer review process, and would replace a triennial list of potential non-filers with annual lists of potential non-filers. If OIG’s recommendations are implemented, instead of performing a non-filer review once every three years, OLEM and the Regions would now perform non-filer reviews annually. Perhaps each annual list individually would be smaller than the 3-year list, but there is no reason to conclude that this method would make these lists more likely to contain actual non-filers, or reduce the total Regional workload to investigate these facilities to determine whether they are in fact subject to the RMP regulation. Also, the resources required to develop an “automated comparison” mechanism may exceed any marginal savings obtained through automating the first step in this non-filer identification process. Such efforts are generally very resource-intensive. Moreover, the Office of Chemical Safety and Pollution Prevention has modified the TRI submission system to notify sources when they submit TRI information for RMP-regulated substances that may be held on-site above an RMP threshold quantity and to collect data concerning sources’ responses to these notifications. This new feature of the TRI submission system already accomplishes the main intent of OIG’s recommendation for automating the comparison of TRI and RMP data. While OEM can use this tool to more quickly extract lists of potential RMP non-filers from the TRI database, for the reasons explained above, there is no way to automate the second, and much more difficult phase of the non-filer review process, in which Regional office staff must individually contact each potential non-filer facility, collect additional information, and ascertain the facility’s regulatory status.

Lastly, OLEM is concerned that conducting non-filer reviews annually may draw resources away from other program priorities, such as performing compliance inspections at known high-risk RMP facilities. OLEM therefore believes that it should continue its current policy of triennial non-filer reviews, and where available, take advantage of data sources other than TRI in completing such reviews. Considering the very minimal effectiveness of the TRI method of RMP non-filer identification, a decision to further automate the front end of the non-filer review process can be considered further, when additional clarity would enable OLEM to determine whether or not such a process would be an efficient use of available resources, when balanced against other program priorities.

OIG Response 6: These recommendations have been deleted.

If you have any questions regarding this response, please contact Kim Jennings, in OLEM's Office of Emergency Management, at (202) 564-7998.

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From: OIG News
Sent: Thur 9/28/2017 1:30:16 PM
Subject: OIG Report: "EPA Can Better Reduce Risks From Illegal Pesticides by Effectively Identifying Imports for Inspection and Sampling"
[_epaoig_20170928-17-P-0412_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *EPA Can Better Reduce Risks From Illegal Pesticides by Effectively Identifying Imports for Inspection and Sampling* (Report No. 17-P-0412). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



*Ensuring the safety of chemicals
Compliance with the law*

EPA Can Better Reduce Risks From Illegal Pesticides by Effectively Identifying Imports for Inspection and Sampling

Report No. 17-P-0412

September 28, 2017



Report Contributors:

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Abbreviations

ACE	Automated Commercial Environment
ACS	Annual Commitment System
CBP	U.S. Customs and Border Protection
CFR	Code of Federal Regulations
CMS	Compliance Monitoring Strategy
CTAC	Commercial Targeting Analysis Center
EPA	U.S. Environmental Protection Agency
FIFRA	Federal Insecticide, Fungicide and Rodenticide Act
FY	Fiscal Year
NOA	Notice of Arrival
NPMG	National Program Manager Guidance
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General

Cover photos: Containers of imported pesticides observed during a tour of the Customs Central Examination site in Bensenville, Illinois. (EPA OIG photos)

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At a Glance

Why We Did This Review

We conducted this review of the U.S. Environmental Protection Agency's (EPA's) Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) import inspection program to determine whether the EPA is effectively identifying imported pesticides for inspection and sampling to deter imports of harmful pesticides and protect human health and the environment.

Illegal imports of pesticides can present significant human health and environmental risks, and have been linked to poisonings of children and pets. Illegal imports include high-risk pesticides that can be counterfeit, produced at unregistered establishments, or produced using unauthorized ingredients. According to the EPA, inspections are a key method to deter the import of harmful pesticides.

This report addresses the following:

- *Ensuring the safety of chemicals.*
- *Compliance with the law.*

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EPA Can Better Reduce Risks From Illegal Pesticides by Effectively Identifying Imports for Inspection and Sampling

What We Found

The EPA is at risk of not effectively identifying imported pesticides for inspection and sampling. EPA regions did not meet the voluntary frequency goal of inspecting 2 percent of all shipments of imported pesticides nationwide in fiscal years 2015 and 2016. In fiscal year 2016, the EPA's

10 regions conducted only 73 inspections of 46,280 pesticide shipments. This is an inspection rate of 0.002; an inspection rate of 2 percent would have been about 926 inspections. Consequently, there is limited assurance that imports in violation of FIFRA will be identified or prevented entry into the United States.

We found that in two EPA regions, inspections were more likely to be conducted close to the regional office rather than where the greatest number of pesticides entered the region. In the last 5 years, the seven EPA regions we reviewed had sampled and tested the integrity of only seven pesticides out of approximately 145,000 shipments of imported pesticides. Regional resources available to carry out inspections are not considered part of strategic planning, and regional participation in achieving the agency's inspection frequency goal is voluntary.

The EPA's implementation of the required U.S. Customs and Border Protection Automated Commercial Enterprise system for automatic processing of import notices will allow EPA regions more time for targeting and inspections. However, the agency has no guidance or training available on how EPA regions can use information from this system to target future inspections or develop their own targeting strategies. Guidance or protocols for how EPA regions can coordinate with U.S. Customs and Border Protection will also help to ensure that the EPA is notified of any potentially illegal pesticides not found during the agency's review of import notices.

Low rates of inspections and sampling can create a risk that the EPA may not be identifying or deterring the import of pesticides harmful to people or the environment.

Recommendations and Planned Agency Corrective Actions

We made four recommendations that the Assistant Administrator for Enforcement and Compliance Assurance establish national compliance monitoring goals based on regional resources; implement controls to monitor and communicate progress on regional goals; develop guidance and train EPA regions to use the Automated Commercial Enterprise system for regional targeting of importers, manufacturers and pesticide products; and direct each EPA region to develop guidance or protocols for coordinating with local U.S. Customs and Border Protection offices regarding illegally imported pesticides. The EPA concurred with developing protocols for coordinating with local U.S. Customs and Border Protection offices. The remaining three recommendations are unresolved.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

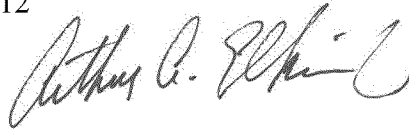
THE INSPECTOR GENERAL

September 28, 2017

MEMORANDUM

SUBJECT: EPA Can Better Reduce Risks From Illegal Pesticides by
Effectively Identifying Imports for Inspection and Sampling
Report No. 17-P-0412

FROM: Arthur A. Elkins Jr.



TO: Lawrence Starfield, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject review conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this review was OPE-FY16-0025. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

In accordance with EPA Manual 2750, the Office of Enforcement and Compliance Assurance and the OIG will meet within 30 days to discuss unresolved Recommendations, 1, 2 and 3. Final decisions on the unresolved recommendations will be timely posted on the OIG's website following the resolution process in EPA Manual 2750. No further response is required on Recommendation 4.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The purpose of this report was to determine whether the U.S. Environmental Protection Agency's (EPA's) Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) import inspection program is effectively identifying imported pesticides for inspection and sampling,¹ for the purposes of deterring imports of harmful pesticides and protecting human health and the environment.

Background

A pesticide is any substance or mixture of substances—and a pesticide device is an instrument—intended for preventing, destroying, repelling, mitigating or trapping any pest.

Illegal imports of pesticide products from other countries can present significant human health and environmental risks, and have been linked to poisonings of adults, children and pets (see box for an example). Interception of such pesticides before they enter the United States is critical. Illegal pesticide imports include a wide range of products, including a variety of high-risk unregistered, misbranded, adulterated, counterfeit or imitation pesticides produced at unregistered establishments or by using unauthorized sources of active ingredients. In addition, the EPA has stated that illegal imports of pesticides can create an unfair playing field, presenting significant financial impacts for those companies importing and selling legal products.

Example of an Illegal Pesticide: Insecticide Chalk



**Chinese
Insecticide
Chalk
(EPA photo)**

Illegal insecticides manufactured to resemble blackboard chalk sold under various trade names—including Pretty Baby Chalk, Chinese Chalk, and Miraculous Insecticide Chalk—are dangerous. These may be sold in a neighborhood store or on the street for about \$1 a box. These products are mostly imported illegally from China, and often bear a label in both English and Chinese. Sometimes the manufacturer claims that the chalk is "harmless to human beings and animals" and "safe to use." Children can easily mistake insecticide chalk for blackboard chalk or put it in their mouths. State agencies have reported illnesses of children linked to ingestion or handling of the chalk. Some insecticide chalks can cause serious health problems, including vomiting, stomach pains, convulsions, tremors, loss of consciousness, and serious allergic reactions.

Source: EPA

¹ The agency identified non-inspection activities that support the FIFRA imports program. These can include desk audits, producer establishment and marketplace inspections with an imports component, compliance assistance for importers, and participation in international working groups.

The EPA regulates pesticide and pesticide device imports in accordance with FIFRA. Section 17(c) of FIFRA and the corresponding U.S. Customs and Border Protection (CBP) regulations (19 CFR §§ 12.110–12.117) require any importer of a pesticide or device into the United States to submit a Notice of Arrival (NOA) to the EPA prior to arrival of the shipment. Prior to December 31, 2016,² all NOA forms were sent to the EPA regional office having jurisdiction over the port of entry. EPA regions would review, evaluate and advise on the disposition of the import shipment to CBP at the port of entry. Once the EPA’s evaluation is completed, the NOA is annotated, signed and dated by the EPA case officer and returned to the importer for presentation to CBP at the time of entry. The shipment is then released, detained or denied entry by CBP based on the EPA recommendation.

According to the EPA, inspections are the “core” of the FIFRA compliance monitoring program. Inspections are intended to prevent the unlawful entry of pesticides into the United States, help bring regulated entities into compliance, and collect evidence to take appropriate enforcement actions. The EPA’s 10 regional offices are the primary source of inspections and enforcement for imported pesticides. States may become involved through region-to-state referrals to monitor post-entry import compliance. States may also encounter imported products during the course of other compliance monitoring inspections.

Enforcement Priority Placed on Imported Pesticides

Annual Commitment System

The EPA’s Office of Enforcement and Compliance Assurance (OECA) monitors regional, state and tribal implementation activities using regional and state results entered in OECA databases, the Annual Commitment System (ACS), and data collected in the implementation of national enforcement initiatives. For the FIFRA program, the ACS commitment for each EPA region is a minimum of 10 FIFRA inspections; this may or may not include import inspections. According to OECA, the types of inspections conducted depend on each region’s priorities.

National Program Manager Guidance

Since fiscal year (FY) 2009, OECA has identified enforcement against illegal importation of pesticides as a national priority through its National Program Manager Guidance (NPMG). The goal of priority setting is to focus the agency’s compliance monitoring efforts on program areas with the greatest need first. To support this national priority, the NPMG suggested activities for EPA regions that include:

- Monitoring pesticide import compliance through inspections at entry ports and designated destination points (e.g., after imported products have been released by CBP and have entered U.S. commerce).

² As of December 31, 2016, the EPA started its required transition to the CBP’s Automated Commercial Environment (ACE) system for electronic receipt and processing of NOAs for pesticide imports.

- Collecting pesticide samples and submitting these samples to laboratories for formulation analysis to ensure product composition complies with terms of product registration.

As part of the NPMG priority-setting effort, the EPA also develops national targeting strategies. The goal of targeting is to focus on the most significant environmental problems within a priority area by identifying specific pesticide products or producers that may pose the greatest risk of harm to human health or the environment due to noncompliance. According to OECA staff, in FY 2015, as a result of regional enforcement efforts, the EPA addressed 6.7 million pounds of noncompliant pesticide imports and assessed just over \$456,000 in penalties.

For FY 2015, the EPA's draft regional implementation strategy for its NPMG priority focused on "high-risk" unregistered pesticides and importers with a history of noncompliance, and significant importation activity from countries frequently associated with noncompliant shipments. The implementation strategy called for EPA regions to:

- Conduct inspections based on identified targets.
- Evaluate compliance and identify potential violations of FIFRA.
- Take samples of imported pesticides when potential discrepancies in information provided by the importers are identified.

FIFRA Compliance Monitoring Strategy

In 2015, OECA issued its *FIFRA Compliance Monitoring Strategy* (CMS) to work in conjunction with the NPMG. The CMS established an "aspirational" compliance monitoring goal ("inspection frequency") for EPA regions to voluntarily achieve in support of the NPMG's and EPA's national enforcement priority focusing on imported pesticides:

- Inspect nationwide 2 percent of all imported pesticide shipments annually (or 480 total inspections per year across all 10 EPA regions).³
- Target pesticide imports using for-cause and neutral scheme inspections as well as pesticide formulation sampling.

While the CMS provides an aspirational goal, according to OECA, the EPA's ACS measure of a minimum of 10 FIFRA inspections is considered to be the agency goal and commitment for each region.⁴ The CMS provides guidance to the regions on how to target inspections to raise compliance rates by focusing on identifying

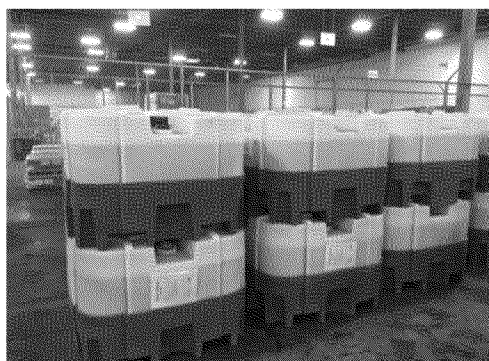
³ The CMS estimated the total number of NOAs received to be 24,246 based on data collected from EPA regions through July 2009.

⁴ Since FY 2010, the OECA NPMG has included an ACS measure specifying that each EPA region should conduct a minimum of 10 FIFRA inspections. This measure is not specific to import inspections. It can include the following different types of FIFRA inspections: import, export, use, pesticide producer establishment, certified applicator, restricted-use pesticide dealer, marketplace, worker protection standard, or Good Laboratory Practice inspections and data audits.

specific pesticide products that may pose the greatest risk of harm to humans or the environment. The CMS also states that the EPA can provide a deterrent effect by maintaining a visible presence in the FIFRA-regulated community as a whole, and lists FIFRA imports as a “core” area for deterrence purposes.

Import Inspections and Sampling

EPA regions conduct inspections to ensure that imported pesticides comply with the requirements of FIFRA. Under FIFRA, the EPA conducts for-cause inspections in response to a suspected violation based on a NOA review, a tip or complaint, or as a follow-up to an ongoing investigation. The EPA can also conduct neutral scheme inspections, which monitor compliance based on a set of unbiased criteria rather than information that a pesticide may be in violation.

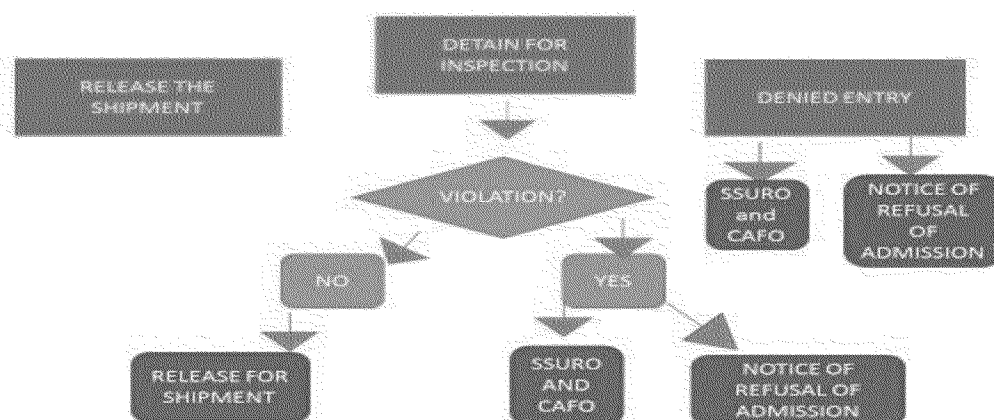


Pesticides set aside to be inspected.
(EPA Office of Inspector General [OIG] photo)

During import inspections, EPA regional staff can examine the pesticide labels for mandatory labeling requirements, check for collateral labeling (such as books and pamphlets), and check the condition of the entire shipment. EPA regions can also collect formulation samples and submit them to a laboratory for analysis to ensure the pesticide’s composition is not adulterated and complies with the terms of its EPA registration. If the pesticide is in compliance, the region then notifies CBP that the shipment can be

released to the importer. As illustrated in Figure 1, if a violation is found, the EPA can take enforcement actions such as: denying a shipment entry with a Notice of Refusal of Admission; issuing a Stop Sale, Use or Removal Order; or issuing a fine or penalty. The EPA may also seek injunctive relief in certain circumstances where a violation continues after the agency has taken an enforcement response.

Figure 1: NOA review process for imported pesticides



SSURO: Stop Sale, Use or Removal Order
CAFO: Consent Agreement and Final Order

Source: EPA Region 6.

Automated Commercial Environment Database

The CBP's Automated Commercial Environment (ACE) is intended to be the primary system through which the trade community reports imports and exports and the government approves pesticide products for entry into the United States. Executive Order 13659, *Streamlining the Export/Import Process for America's Businesses*, issued February 19, 2014, aimed to significantly reduce processing and approval times for importers and exporters.⁵ In response to Executive Order 13659, the CBP transitioned all partner government agencies—such as the EPA—to begin using ACE on January 1, 2017. ACE electronically processes the majority of NOAs, significantly reducing the need for manual review and approval by the EPA. Importers can continue to file paper NOAs, and the EPA will continue manual reviews and approvals as necessary.

Responsible Offices

OECA's Office of Civil Enforcement and Office of Compliance set national priorities through the EPA's NPMG, and issue national guidance for conducting FIFRA inspections and NOA reviews. OECA's Office of Compliance also develops the EPA's inspection sampling guidance (documentation, how much to collect, chain of custody, etc.) and conducts both basic and FIFRA-specific inspector training.

The Office of Chemical Safety and Pollution Prevention provides as-needed support to EPA regions on product registration, and its Biological and Economic Analysis Division provides laboratory support to the regions for sampling analysis of pesticide imports.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We conducted this audit from May 2016 through July 2017.

We reviewed relevant materials, including FIFRA implementing regulations, and EPA procedures and guidance for pesticide imports. Our review included documents such as OECA's 2015 Compliance Monitoring Strategy for FIFRA,

⁵ The International Trade Data System, as described in Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109-347), was established to modernize and simplify the way in which partner government agencies—including the EPA—interact with the trade community by creating a single portal through which filers submit the data elements required for import or export of cargo. CBP designed ACE to provide that “single window” for the electronic filing of import entries.

OECA's NPMG (FYs 2010–2017), the EPA 2013 FIFRA Inspection Manual, the OECA National Guidance for Review and Processing of Notice of Arrivals for Pesticides and Devices, regional guidance and procedures for pesticide imports, and EPA Office of Environmental Information guidance on CBP's ACE portal system.

We gathered data from all 10 EPA regional offices and selected seven (Regions 4, 5, 6, 7, 8, 9 and 10) as the focus of our evaluation.⁶ We reviewed import inspection reports from the selected regions. We reviewed pesticide import sampling reports from EPA Region 10. We interviewed personnel from the Georgia Department of Agriculture, Pesticides Division, about federal inspections conducted on behalf of EPA Region 4.

We interviewed OECA staff, Office of Pesticide Programs staff, Office of Environmental Information technical staff, and EPA regional pesticide and enforcement managers and staff. We also interviewed regional FIFRA import coordinators and inspectors to better understand the FIFRA regional import review and inspection process.

We reviewed CBP regulations regarding pesticide imports. We interviewed CBP personnel who work with EPA Regions 5, 9 and 10 about their roles and responsibilities in monitoring, inspecting and detaining pesticide imports, as well as their roles in coordinating with EPA regional FIFRA import coordinators and inspectors.

We reviewed the NOA databases for Regions 6 and 9, as well as OECA's SharePoint website for FIFRA Import Coordinators.

We also interviewed U.S. Food and Drug Administration staff regarding their Predictive Risk-based Evaluation for Dynamic Import Compliance Targeting program. We reviewed information on this targeting tool provided by the U.S. Food and Drug Administration.

⁶ We collected NOA and inspection totals from all 10 EPA regions for FYs 2015 and 2016 (see Table 1).

Chapter 2

EPA Has Not Met Its Inspection Frequency Goal for Imported Pesticides

In FYs 2015 and 2016, EPA regions did not meet the agency's voluntary frequency goal of inspecting 2 percent of all imported pesticide shipments nationwide. In FY 2016, the 10 EPA regions combined conducted only 73 inspections of 46,280 shipments of imported pesticides. This is an inspection rate of 0.002; 2 percent of the 46,280 would have been 926 inspections. We found that in two EPA regions, inspections were more likely to be conducted close to the EPA regional office rather than where the greatest number of pesticide shipments enter the region. In the last 5 years, the seven EPA regions we reviewed only tested the product composition of seven products out of approximately 145,000 shipments. The EPA's strategic planning for inspecting and sampling imports did not take into account regional resources available. Further, regional participation is also considered voluntary. These challenges create a risk that the EPA cannot effectively detect misrepresentations, errors and discrepancies of pesticide shipments, or deter the importing of harmful pesticides.

EPA Regions Have Not Met the CMS Inspection Frequency

The EPA only inspected 0.002 of all known shipments of pesticides imported into the United States in FYs 2015 and 2016 (Table 1).⁷

Table 1: EPA regional NOA reviews and inspections in FYs 2015 and 2016

EPA Region	NOAs (FY 2016)	Inspections	NOAs (FY 2015)	Inspections
Region 1	2,212	0	2,018	4
Region 2	8,151	13	6,608	11
Region 3	1,130	8	1,239	5
Region 4	6,093	3	3,819	N/A
Region 5	5,411	12	5,950	9
Region 6	14,106	5	8,573	10
Region 7	1,845	14	2,202	3
Region 8	523	3	610	3
Region 9	4,326	9	3,737	6
Region 10	2,483	6	2,020	4
Totals	46,280	73, or .002	32,957*	55, or .002

* Region 4 is excluded from this total because it was unable to provide the number of inspections for FY 2015.

Source: EPA OIG.

⁷ In FY 2015, there were an additional 48 state-led FIFRA import inspections (using federal credentials), 78 percent of which were conducted in the U.S. territories of the Commonwealth of the Northern Mariana Islands (23) and Puerto Rico (14). In FY 2016, there were 64 state-led FIFRA import inspections, 50 percent of which were conducted in the Commonwealth of the Northern Mariana Islands (27) and Puerto Rico (5).

This is significantly below the agency's CMS frequency goal of inspecting 2 percent of all shipments of imported pesticides; 2 percent of the 46,280 would have been 926 inspections. Regional staff are focused on completing NOA



Pesticide import screening area.
(EPA OIG photo)

reviews as required under FIFRA and CBP regulations. A Region 5 import inspector said noncompliance issues (such as torn, missing or unreadable labels and leaks from containers) can be found during inspections, including routine inspections, but cannot be detected through a review of a NOA for a shipment.

OECA's 2015 FIFRA CMS provided national pesticide compliance monitoring expectations to EPA regions. The CMS established an aspirational and voluntary frequency goal of inspecting 2 percent (approximately 480 total inspections across all 10 EPA regions) of all shipments of imported pesticides each year. However, as of our review, the regional offices had committed to conducting only 10 FIFRA inspections per year, which may or may not include any import inspections. The CMS stated that the aspirational frequency goal "presume[s] adequate funding and resources and, therefore, the actual number of inspections conducted may differ from the frequencies set forth."

The large gap between the current agreed-upon commitment level of inspections and the frequency goal indicates a disconnect that needs to be addressed, given funding and resources. OECA headquarters staff stated that no analysis of available resources or regional input was used to develop this CMS frequency goal. It is unclear how regions without "adequate funding and resources" will achieve the inspection frequency goal, or what the performance expectation is for regions without these resources.

Some EPA Regions Are Not Inspecting at High-Traffic Ports

Our review of two EPA regions (Regions 5 and 6) found that when some EPA inspections occur, they are more likely to be conducted in close proximity to the respective regional office rather than in areas where the greatest number of imported pesticides shipments are entering that region. For example, between FYs 2012 and 2015, Region 6 did not conduct any inspections at the port of Laredo, Texas, even though it was the busiest port in the region, with 21,549 NOAs for shipments of imported pesticides received. Instead, all 29 inspections conducted by Region 6 took place close to the EPA's regional office in Dallas, Texas, where only 639 NOAs were received (Figure 2).

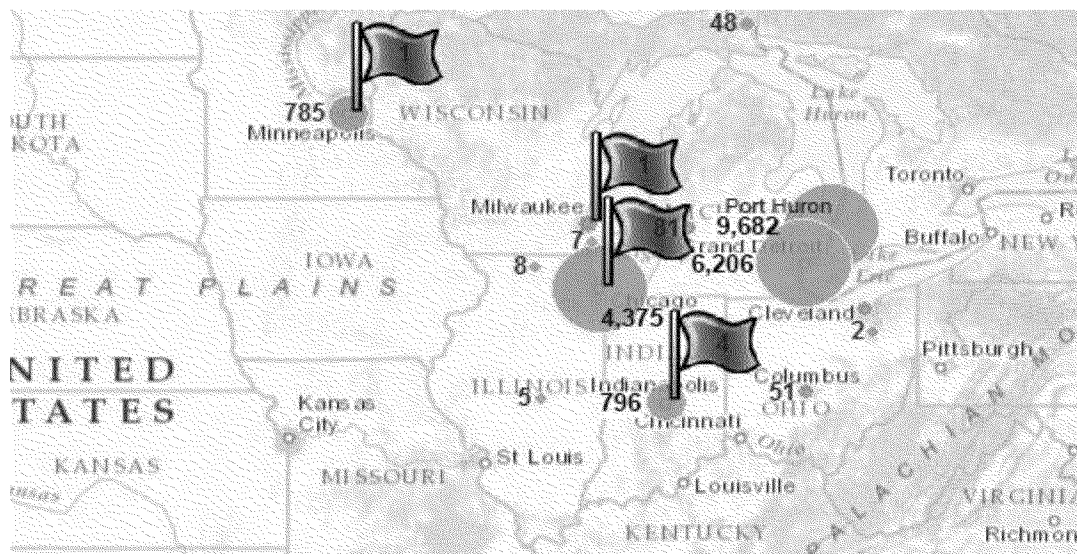
Figure 2: EPA Region 6 high-traffic ports and inspection locations (FYs 2012–2015)



Flag denotes inspection location and inspection numbers. The circles show the number of NOAs for shipments of imported pesticides received by location. (Source: EPA OIG)

Similarly, in Region 5, there were no import inspections conducted at its busiest port—Port Huron, Michigan—during FYs 2012 through 2016, where 9,682 NOAs for imported pesticide shipments were received (Figure 3). Region 5 staff said that budget constraints on travel impact their ability to inspect ports. In Region 5, about 81 import inspections were conducted near the regional office in Chicago, Illinois, where 4,375 NOAs were received.

Figure 3: EPA Region 5 high-traffic ports and inspection locations (FYs 2012–2016)



Flags denote inspection locations and inspection numbers. The circles show the number of NOAs for shipments of imported pesticides received by location. (Source: EPA OIG)

The NPMG suggests that EPA regions should monitor import compliance through inspections at entry ports and designated destination points to assist with deterrence. The CMS further emphasizes the need for “maintaining a visible presence in the FIFRA-regulated community” for pesticide imports to help deter noncompliant imports. OECA headquarters staff said that a key method to maintaining this visible presence is conducting an adequate number of on-the-ground inspections so that industry is aware that the EPA is monitoring compliance. With near zero inspection presence at high-volume ports in some EPA regions, the agency is not maintaining the visible presence called for in its CMS. For example, a regional manager indicated the particular region was once targeted by the pesticide import industry as the port of choice for import entry because of a lack of inspections. This creates the risk of noncompliant pesticides entering the United States.

Some Regions Are Not Conducting Neutral Scheme Inspections

Further, the CMS encourages the EPA regions to conduct both for-cause and neutral scheme inspections. However, we found that some regions were not conducting neutral scheme inspections. Neutral scheme inspections monitor compliance based on a set of criteria rather than information that a violation has occurred or is occurring; these inspections can rely on random selection or selection by relevant statistics. EPA Regions 4, 6, 7 and 9 only conducted for-cause inspections initiated in response to an already-suspected violation identified from a tip, complaint or information on a NOA. Regions 5, 6, 8 and 10 conducted some neutral-scheme FIFRA import inspections. OECA staff said that the agency prefers that regions conduct for-cause inspections because that means there is a suspected violation and the ability for the agency to stop potential harm. However, a review of Region 5 inspection reports showed that neutral scheme inspections found instances of FIFRA noncompliance.⁸



EPA staff sampling pesticide imports. (EPA Region 10 photo)

EPA Regions Sample Few Imported Pesticides

In the past 5 years, of the seven regions reviewed, Regions 4, 7 and 10 sampled seven imported pesticides for product formulation out of an estimated 145,000 known pesticide shipments to these seven regions. Region 10 is the only current “active” sampling region. Regions 5, 6, 8 and 9 do not conduct any product formulation analysis, even though these regions have done so in the past.⁹ Some regions that do not sample instead emphasize label review, and photograph actual labels or containers from imported pesticides during inspections for comparison to EPA product registrations.

⁸ Noncompliance issues identified included labels on imported pesticides that do not match EPA-approved labels, imported goods missing labels, and pesticide containers leaking pesticide liquid and residue.

⁹ On July 28, 2015, OECA provided training to EPA regions on how to sample pesticides shipped in bulk containers and provided each region with equipment.

For FYs 2013, 2016 and 2017, OECA's NPMG directed EPA regions to review NOAs for potential discrepancies relating to the source of active ingredients and countries of origin. Two regions said that they do not have the capability to analyze samples (e.g., no laboratory nearby, laboratory lacking formulation analysis expertise). Other EPA regions indicated they did not see the benefit of sampling, or rely on the NOA review process to refuse entry of a shipment without having to sample. Representatives at the agency's designated headquarters laboratory for sampling analysis said they do not actively promote their pesticide formulation analysis capabilities because they do not have the resources to properly assist all 10 EPA regions.

OECA headquarters staff said that, over the past several years, the EPA has seen an increase in pesticide imports (as well as those that are domestically produced) having modified or "off-spec" product formulations that are different from their EPA-registered formulas. Since formulation sampling is so limited, the EPA cannot validate whether product composition of imports is a potential threat, or demonstrate the value of sampling for regions that are not actively doing it.

EPA National Targeting Results in Few Inspections

Our review of two EPA regions (Regions 6 and 9) found that the EPA's national targeting effort may result in only a few imported pesticides being identified by the regions for inspection. For FY 2015, the EPA developed a list of targeted manufacturers and pesticide importers for each region to pursue neutral scheme and for-cause inspections. We compared the electronic NOA databases for Regions 6 and 9 to regional inspection reports. We found that for the 11 targeted importers in these two regions, only one inspection was conducted despite receipt of 4,637 NOAs from the 11 importers during this period. The agency provided data that showed that only three EPA regions conducted a few import inspections based on targeting efforts.

The EPA also initiated another national-level targeting effort through its participation in the Commercial Targeting Analysis Center (CTAC).¹⁰ According to a former EPA liaison for CTAC, the focus of the targeting was to review NOAs from certain pesticide importers with "more scrutiny." The CTAC targeting plan instructs EPA regions to inspect and sample "as appropriate."¹¹ However, the former liaison further added that a targeting effort is not intended to result in a rise of inspection events.

¹⁰ The EPA is a member agency of the CTAC, which is a CBP-led inter-agency workgroup designed to streamline and enhance federal efforts to address import safety issues. The CTAC combines the resources and manpower of the CBP and other government agencies to protect the American public from harm caused by unsafe imported products by improving communication and information-sharing, and reducing redundant inspection activities.

¹¹ The targeting plan states: "EPA regional inspectors will conduct import entry document reviews and conduct pesticide import inspections, as appropriate, based on identified targets ... at targeted ports of entry and take samples of imported pesticides when potential discrepancies are noted, including but not limited to the country of origin and sources for active ingredients used to produce registered pesticides as identified on their Confidential Statements of Formula."

The CMS states that the goal of targeting is to focus on the most significant environmental problems within a priority area by identifying specific pesticide products and producers that may pose the greatest risk of harm to human health or the environment due to noncompliance. The agency's FY 2015 NPMG draft FIFRA imports implementation strategy also details the use of inspections for evaluating compliance and identifying potential violations of FIFRA. A targeting strategy focused primarily on reviews of NOAs does not provide more assurance that noncompliance by high-risk importers and pesticides are detected.

Example of a Targeting Strategy



A port located in EPA Region 10
(EPA photo)

EPA Region 10 has developed a targeting strategy that includes risk-based criteria to help inform a decision on whether to inspect an imported pesticide. This strategy uses criteria such as product label signal words (e.g., danger, skull and crossbones), toxicity, completeness and accuracy of the NOA, country of concern, and compliance history to determine an overall score or "targeting value." Based on this score, an import is assigned an inspection priority of high, medium or low. Since 2005, Region 10 stated that this strategy has resulted in over 15 million pounds of pollution reductions and more than \$65,000 in penalties, and that recent inspections have showed an increase in compliance with FIFRA.

OECA Lacks Regional Data and Feedback on Its Imports Focus Area

OECA headquarters staff said that regional analysis of resources is considered during the setting of regional ACS commitments for FIFRA inspections. The inspections negotiated may or may not include pesticide imports. OECA said that regional resources were not considered to develop its aspirational inspection frequency or national targeting strategies. Any inspections or sampling done by the regions in support of these strategies are considered supplemental. OECA headquarters staff rely primarily on the regions to determine what activities to pursue. This can include non-inspection compliance and enforcement activities that support the FIFRA imports program.

OECA formally monitors the progress of EPA regions toward the ACS commitment of conducting 10 FIFRA inspections (which may or may not include imports). However, OECA headquarters does not monitor or evaluate the progress of regional offices related to achieving the CMS voluntary inspection frequency or the activities in its national targeting strategies.¹² At the conclusion of one of the agency's targeting documents, it states that "Regions will report results for FY 15 imports enforcement activities" to OECA. When asked, OECA could not share with us the results because the regions did not provide OECA with any information.

¹² OECA participates in regular conference calls and issues specific consultations for regional import coordinators.

An OECA staff member told us that headquarters generally compiles any available information related to the strategies themselves from EPA databases. As a result, compliance monitoring activities suggested in the CMS and targeting strategies for EPA regions to pursue are not clearly linked to what resources the regions have available to accomplish them. Without monitoring, the EPA lacks information on regional inspection and non-inspection activities in order to evaluate effectiveness, update strategies in response to progress made, and communicate achievements.

Conclusion

EPA regions face challenges meeting the 2 percent aspirational inspection frequency for pesticide imports. With a near zero inspection presence at high-volume ports in some EPA regions, the agency is also at risk of not maintaining the visible presence called for in its CMS. The low rate of inspections and product sampling is a result of the agency's lack of internal controls over strategic planning and accountability. This creates a risk that the EPA's current strategies are not detecting misrepresentations, errors and formulation discrepancies of actual imported pesticides.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

1. Establish national compliance monitoring goals based on assessment and consideration of available regional resources.
2. Implement internal controls to monitor and communicate progress on regional goals.

Agency Comments and OIG Evaluation

In the EPA's official comments, the agency disagreed with Recommendation 1 and proposed no further corrective action. The agency partially agreed with Recommendation 2, but it did not propose a corrective action that met the full intent of the recommendation. In its August 16, 2017, supplemental response, the EPA proposed a revised corrective action for both Recommendations 1 and 2. However, this action does not satisfy the full intent of the recommendations. Therefore, these recommendations are unresolved. The agency also provided technical comments on the draft report, which we incorporated into our final report as appropriate.

The EPA's detailed official response is in Appendix A and its supplemental response is in Appendix B.

Chapter 3

EPA Can Better Plan How to Use ACE Capabilities to Inspect and Sample Imported Pesticides

The EPA does not have a plan or training on how regions can best use the capabilities and information available from CBP's ACE system to target future inspections and sampling. The EPA works with local CBP staff when EPA regions are alerted to potential illegal pesticide imports not found during the EPA's NOA reviews. Guidance or protocols for how EPA regions will coordinate with CBP on activities outside the automated import review process will help ensure that the EPA is notified by CBP of any potential illegal pesticides not found during the EPA's NOA reviews.

EPA Needs Training and Guidance on How to Use ACE for Targeting

As of December 31, 2016, the EPA started its required transition to the ACE system.¹³ Prior to ACE, regional import coordinators were required to manually review each NOA received.¹⁴ EPA Office of Environmental Information staff said ACE will provide the EPA with access to previously unavailable information on shipments and provide the EPA with the ability to produce reports that will assist the regions with targeting. ACE also allows EPA regions to routinely stop incoming shipments or ask for re-delivery of a shipment from an importer.

The purpose of the ACE system is to automate electronic review of NOAs. ACE will review the electronically submitted NOAs. If all fields are correctly filled in, the system will in most cases automatically release the pesticide shipment. ACE will generally only forward to import coordinators for their review NOAs with either erroneous or missing information. OECA staff said it will take the agency the next year or beyond to determine what activities will be the new or additional focus of regional import coordinators.

Both OECA headquarters and regional import staff said ACE would allow for additional data mining to target inspections. EPA Office of Environmental Information staff said the information in ACE can be used by EPA regions to also develop their own targeting strategies. The CMS states that the goal of targeting is to focus on the most significant environmental problems within a priority area by identifying specific pesticides or producers that pose the greatest risk of noncompliance. Using ACE for risk-based prioritization of inspections and

¹³ According to agency staff, during the time of our review, only about 10 percent of pesticide imports were going through the ACE portal; regional coordinators were still reviewing 90 percent of the NOAs manually for the first year.

¹⁴ On August 29, 2014, OECA issued national *Guidance for Review and Processing of Notice of Arrivals for Pesticides and Devices* to ensure the consistency of NOA reviews across EPA regions.

sampling would help to ensure that the agency is not only deterring bad actors but targeting certain pesticides that pose the greatest risk to people and the environment.

EPA Regions Could Improve Coordination With CBP on Pesticides Without Import Notices

Both OECA headquarters and EPA regional staff said that local CBP staff generally alert the EPA to illegal pesticides not found during the NOA review.

Newspaper Reports on Import Seizures by EPA and CBP

U.S. EPA and Customs joint operations at Southern California ports result in fines and seizure of illegal engines and pesticides

LOS ANGELES — On January 19, 2017, the U.S. Environmental Protection Agency and U.S. Customs and Border Protection announced \$217,998 in fines and more than 5,325 items seized or denied entry to the United States. These are the latest results of continued joint operations at the ports of Los Angeles and Long Beach targeting foreign-made engines, including scooters, ATVs, chainsaws and construction equipment without proper emission controls, as well as pesticides that violate federal law.

Source: Highland Community News, Highland, California

These illegal products include pesticides entering without an EPA-approved NOA and unregistered products.¹⁵ However, most of the EPA regions we spoke with work with CBP on an as-needed basis following their NOA reviews. None have written guidance or protocols for working with CBP on activities related to illegal pesticides without NOAs.

The EPA FIFRA Inspection Manual states that it is up to the regional offices to maintain a close cooperative working relationship with CBP, as each port of entry may follow a somewhat different protocol. During our interviews with EPA regional staff, we found that most EPA regions maintained varying relationships with CBP staff based on local protocols.

Guidance or protocols specific to each EPA region's relationship with CBP for illegally imported pesticides would help assist with ongoing identification of illegal pesticide imports not found during the EPA's review of NOAs.

Conclusion

With the automated processing of NOAs through ACE, regional import coordinators will now have more opportunities to focus on targeting imported pesticides for inspection. Guidance or protocols specific to each EPA region's relationship with CBP for illegally imported pesticides outside of the agency's NOA review process would help to ensure that EPA regions are notified when

¹⁵ For example, in June 2016, the CBP office from the port of Los Angeles notified EPA Region 9 about a suspicious shipment of devices imported from China. Region 9 determined that the devices did not contain a valid EPA Establishment Number, and were therefore determined to be misbranded in accordance with FIFRA Section 12. EPA Region 9 subsequently notified the Los Angeles CBP office that the shipment should be "Denied Entry-Refused Delivery into the United States pursuant to the authority of Section 17(c) of FIFRA."

these types of shipments are discovered, and that inspection and sampling-related activities for these illegal pesticides are carried out. Guidance in this area increases assurance that the agency is managing or reducing its risk concerning deterring bad actors and targeting pesticides that pose the greatest risk to people and the environment.

Recommendations

We recommend that the Assistant Administrator for Enforcement and Compliance Assurance:

3. Develop agency guidance and training for EPA regions on how to use the Automated Commercial Environment system for regional targeting of importers, manufacturers and pesticide products.
4. Direct each EPA region to develop guidance or protocols that define how the region will coordinate with local U.S. Customs and Border Protection offices on illegal pesticides that are imported without Notices of Arrival.

Agency Comments and OIG Evaluation

In the EPA's official comments, the agency agreed with Recommendation 3, but it did not provide corrective actions that meet the intent of the recommendation. In its August 16, 2017, supplemental response, the EPA proposed revised corrective actions. This revised action still does not meet the full intent of the recommendation. Therefore, Recommendation 3 is unresolved.

The agency agreed with Recommendation 4 and provided appropriate corrective actions. The agency also provided technical comments on the draft report, which we incorporated into our final report as appropriate.

The EPA's detailed official response is in Appendix A and its supplemental response is in Appendix B.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	13	Establish national compliance monitoring goals based on assessment and consideration of available regional resources.	U	Assistant Administrator for Enforcement and Compliance Assurance		
2	13	Implement internal controls to monitor and communicate progress on regional goals.	U	Assistant Administrator for Enforcement and Compliance Assurance		
3	16	Develop agency guidance and training for EPA regions on how to use the Automated Commercial Environment system for regional targeting of importers, manufacturers and pesticide products .	U	Assistant Administrator for Enforcement and Compliance Assurance		
4	16	Direct each EPA region to develop guidance or protocols that define how the region will coordinate with local U.S. Customs and Border Protection offices on illegal pesticides that are imported without Notices of Arrival.	R	Assistant Administrator for Enforcement and Compliance Assurance	9/30/18	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

Agency Response to Draft Report and OIG Evaluation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

JUL 27 2017

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Report: "EPA Can Better Reduce Risks From Illegal Pesticide Imports," dated June 27, 2017, Report No. OPI-FY16-0025

FROM: Lawrence Starfield *[Signature]*
Acting Assistant Administrator

TO: Carolyn Cooper
Assistant Inspector General
Office of Program Evaluation

Thank you for the opportunity to respond to the draft findings and recommendations presented in the Office of Inspector General (OIG) Draft Report, "EPA Can Better Reduce Risks from Illegal Pesticide Imports" (Report). Following is a summary of comments from the Office of Enforcement and Compliance Assurance (OECA), followed by OECA's position on each of the Report's recommendations. For those Report recommendations with which OECA agrees, we propose corrective actions and estimated completion dates. For those Report recommendations with which OECA does not agree, we explain how EPA is already performing the recommended action. OECA's comments are provided below for your consideration in revising the draft Report.

Background and Summary Comments

This Report focuses on whether the Environmental Protection Agency's (EPA) Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) import inspection program is effectively identifying imported pesticides for inspection and sampling for the purpose of deterring imports of harmful pesticides and protecting human health and the environment. OECA agrees that illegal pesticide

imports can present significant human health and environmental risks. Because of these risks, OECA and the regional offices have focused resources in this area and made significant progress in intercepting noncompliant products and returning them to compliance before entry, or preventing those products from entering into U.S. commerce. The quantities of noncompliant pesticide imports that are addressed through OECA's national imports compliance monitoring and enforcement efforts greatly exceed the amount the Agency addressed ten years ago. The Report draws a direct correlation between the numbers of inspections EPA conducts and the amount of illegal imports EPA is able to identify; OECA feels strongly that this is an incorrect description of our program. In particular, the Report fails to capture the variety of ways that EPA identifies unlawful imports and deters noncompliance, which are described in more detail below.

OIG Response: The scope of this evaluation and report focuses on how the EPA is identifying imports specifically for inspection and sampling. Our focus on inspection and sampling activities within the FIFRA program reflects the emphasis placed on these activities in OECA monitoring and enforcement guidance to EPA regions. Since FY 2009, the OECA NPMG has identified FIFRA imports as a national enforcement priority. To support this priority, the NPMG lists inspections and sampling as compliance monitoring activities that the regions should conduct. The ACS measure for the FIFRA NPMG is a minimum of 10 FIFRA inspections conducted by EPA regions. OECA's FY 2015 Draft FIFRA NPMG Regional Implementation Strategy also emphasizes two compliance activities, inspections and sampling. The OECA CMS for FIFRA imports (2015) establishes an "aspirational" inspection frequency of 2 percent of all FIFRA imports nationwide and states that the EPA should conduct both for-cause and neutral scheme inspections.

EPA has significantly strengthened the pesticide imports compliance assurance and enforcement program over the past ten years. Program improvements include: (1) ensuring consistency across regions when reviewing Notices of Arrival for Pesticides and Devices (NOA) through protocols and guidance; (2) improving communications among regional import specialists through monthly coordination calls and an intranet-based Import Forum for sharing information; (3) emphasizing aggressive enforcement against noncompliant import products; (4) establishing import compliance as a focus area in OECA's National Program Manager's Guidance (NPMG); (5) increasing regional inspection capabilities so that each region has at least minimal capacity to conduct FIFRA inspections, including import inspections; (6) providing pesticide bulk sampling training for the regions and providing sampling equipment for those inspection activities; and (7) arranging for analytical support from the National Enforcement Investigations Center (NEIC) and the Fort Meade pesticides laboratory operated by the Office of Pesticides Program's (OPP) Biological Evaluation and Assessment Division (BEAD) for regional pesticide enforcement cases, including imports cases.

OIG Response: The scope of our review did not include an assessment of all the EPA's non-inspection compliance activities, enforcement or improvements to the FIFRA imports program. Therefore, we cannot offer an independent opinion on the claimed strengths or improvements. However, our report acknowledges several of the FIFRA program improvements listed above that were related to the scope of our review, such as identifying imports for inspection and sampling.

In addition, EPA has conducted activities to improve FIFRA imports compliance assurance and enforcement generally, including: providing direct compliance assistance to importers,

manufacturers, and brokers; engaging other countries through OECD working groups; and providing FIFRA training to U.S. Customs and Border Protection (CBP) import specialists and inspectors to help them identify regulated pesticide products. OECA has updated its enforcement database, ICIS, to improve EPA's ability to track entry denial enforcement actions and their resulting environmental benefits. Collectively, these efforts have created a much stronger pesticide imports enforcement program that EPA continues to make significant strides towards improving.

OIG Response: This evaluation focused on the inspection and sampling activities of the FIFRA imports program. We did not assess the extent or effectiveness of other import compliance assistance and enforcement, or all external engagements undertaken by the agency. Our review included discussions with CBP and EPA staff in Regions 5, 9 and 10 about coordinating on inspections and identifying pesticides attempting to be illegally imported outside the NOA process. Based on these discussions, we concluded that guidance or protocols specific to each EPA region's relationship with CBP would help to ensure that the EPA is consistently notified about shipments of imported pesticides without a NOA.

We disagree with the Report's premise that the numbers of inspections EPA conducts determines the amount of illegal imports EPA is able to identify and deter. We deter the entry of noncompliant pesticide products through a broad array of mechanisms, only one of which is on-site inspections. In fact, import inspections are not one of the main approaches EPA uses to detect and prevent entry of noncompliant pesticide products into United States commerce. Electronic investigations, tips and referrals from CBP, and other (non-inspection based) investigatory tools are efficient and effective ways to identify noncompliance. Import inspections are used primarily to confirm suspected noncompliance (in the minority of instances where EPA is not able to confirm compliance using the investigatory tools listed above), or to confirm a return to compliance for shipments that have been denied entry due to a violation that can be corrected.

OIG Response: We concluded that low rates of inspections and formulation sampling can create a risk that the EPA may not be identifying, or deterring, the import of pesticides harmful to people or the environment. The OECA NPMG consistently suggests that EPA regions monitor compliance through inspections at ports of entry, and the CMS suggests further engaging in both for-cause and neutral scheme inspections and using targeting strategies to identify imports for possible inspection.

One of EPA's best sources of information regarding suspect shipments attempting to enter the country is CBP. CBP and EPA share regulatory authority at the border, and consistent with the regulations, we rely on each other's expertise and procedures to identify and handle illegal shipments. CBP frequently identifies pesticide imports for which no NOA was submitted and which might require a NOA based on criteria EPA has provided to CBP to help identify such products. In these cases, CBP notifies and then coordinates with EPA on an appropriate course of action, *i.e.*, whether an inspection should occur, whether the shipment should be held and for how long, or whether it should be released under bond, and CBP then responds to the broker or importer to implement the response. This shared responsibility allows EPA to efficiently and effectively identify noncompliant shipments. By utilizing CBP's authority to hold and direct the movement of noncompliant shipments, EPA can determine whether an inspection and/or sampling is needed or whether noncompliance is clear, in which case EPA would work with the importer to assure compliance before releasing the shipment. EPA and CBP's coordination is now entering into a new

electronic era with implementation of the Automated Commercial Environment / International Trade Data System (ACE/ITDS). As that new process gets better established with the regulated trade community, and as our regional pesticide import staff become more comfortable with how the system operates and its capabilities, the ACE/ITDS system is expected to be a significant enhancement for our compliance monitoring efforts.

OECA's current data system does not track many of our efforts to return goods to compliance before they enter U.S. commerce. The system only tracks the enforcement actions that result in entry denial, entry under a Stop Sale, Use or Removal Order (SSURO), or unlawful entries for which a penalty was assessed. The data system does not account for the millions of pounds of noncompliant products that are "delayed" entry while they are returned to compliance. Indeed, providing importers the opportunity to return noncompliant products to compliance before they enter the domestic consumer market, often with the understanding that a penalty action will follow for the illegal import, represents a large part of this program's success in achieving compliance and deterrence. Although EPA data does not capture these activities, the Report should acknowledge this substantial work, and recommend working with EPA to improve tracking in this area.

OECA requests that the OIG reassess its basic assumption that inspections are the primary metric by which to judge the success of the pesticide imports enforcement program, reconsider its findings based on a review of the whole program, and revise the narrative of its Report accordingly. In the attached "Technical Comments to the Draft OIG Report on FIFRA Imports Enforcement Program" document, we have provided specific suggestions for revisions of the Report's text that more accurately reflect the status of the FIFRA imports enforcement program and incorporate appropriate recommendations.

OIG Response: The scope and focus of this evaluation was EPA regional inspections and sampling in the context of the ACS measure, voluntary inspection frequency in the FIFRA CMS, and suggested regional activities in NPMG. Our findings and recommendations are limited to how imports are identified by EPA regions to inspect or sample. Based on the agency's response and technical comments, we have made changes to the report where appropriate.

Recommendation 1: Strengthen internal controls by establishing national compliance monitoring goals based on assessment and consideration of available regional resources.

OECA does not agree with this recommendation. While the OIG correctly notes the importance of considering regional resources in developing commitments for inspections and other compliance monitoring activities, OECA already assesses and considers available regional resources as part of the Annual Commitment System (ACS), and its interplay with the FIFRA Compliance Monitoring Strategy (CMS), the OECA NPMG, and the FIFRA Cooperative Agreement Guidance (CAG).

OIG Response: The OIG is recommending that OECA revise its current aspirational frequency goal for import inspections to align more closely with what EPA regions can realistically achieve.

The Report seems to interpret the CMS inspection frequency for imports as a commitment that did not take into consideration regional resources. As explained during the OECA/OIG meeting held on May 11, 2017, the inspection frequency chart should not be taken out of context. The introduction to that chart is very clear and explains the purpose of inspection frequencies and sets forth that:

“Inspection frequencies are intended to help EPA, the states and tribes to understand and meet today’s challenges by providing benchmarks that set aspirational compliance monitoring goals. The frequencies presume adequate funding and resources and, therefore, the actual number of inspections conducted may differ from the frequencies set forth below.” Further, the CMS reads, “[a]ctual annual program commitments for ALL inspection types are negotiated as part of the cooperative agreement process or are subject to the annual commitment system process. Individual regional, state and tribal circumstances, including resource and workload issues, are addressed during those processes.” A proposed aspirational goal is not and was never intended to be a regional commitment. It is possible that the Report has mistakenly interpreted the proposed inspection frequency for imports in the CMS as a commitment by the regions to conduct inspections of 2% of all NOAs. It is not. Regional resources are considered and incorporated, not in setting inspection frequencies in the multi-year framework of the CMS, but, rather in the Annual Commitment System (ACS) process. Since the inspection frequency “presumes adequate funding,” inadequate funding can cause EPA to not meet the aspirational goals in the CMS.

OIG Response: The report identifies this inspection frequency goal as voluntary, not as a regional commitment. At the time of our review, we found that EPA had an inspection rate of 0.002 versus the voluntary inspection frequency goal of 2 percent. The report states that the CMS voluntary inspection frequency “presumes adequate funding.” However, it is unclear from our review of the CMS what “adequate funding” would be for each region or OECA’s strategy to achieve this aspirational goal.

The ACS process is conducted annually and specifically takes into consideration the regional resources in developing the number of inspections to be conducted by program. Commitments made during the ACS process are the annual compliance monitoring goals (not the inspection frequencies in the CMS). The region commits to the negotiated number of inspections for the year. The FIFRA ACS requirement specified, “A minimum of ten (10) FIFRA inspections will enable regional FIFRA inspectors to manage the federal FIFRA program and retain the skills to adequately oversee inspections conducted by FIFRA grantees.” Depending upon the resources available, regions have committed to a varying number of inspections as part of the ACS process. The number of those resources committed to import inspections would depend on the balanced pesticide program developed in that region.

The Report fails to place appropriate emphasis on the value of regional NOA reviews and other import-related activities. Inspections are not the whole picture of import compliance monitoring. Specifically, the CMS reads, “It is increasingly challenging to monitor compliance and maintain adequate enforcement response capabilities in the face of a regulated community that continues to grow in size and complexity. While still important, our traditional approach of conducting on-site inspections and pursuing enforcement cannot keep up with expanding responsibilities. It is imperative that compliance monitoring and enforcement agencies be flexible and creative in designing approaches to identify and address violations that pose risk to human health and the environment while maximizing available resources. Therefore, EPA is expanding the range of compliance monitoring activities....” The CMS acknowledges that reducing risk and creating a deterrent effect may be achieved by other means besides traditional inspections and these creative solutions may be a viable way to maximize resources. In fact, where funding and resources have been and will continue to be reduced, EPA will use many of these alternatives to on-site inspections.

Reviewing NOAs and issuing denials and/or conditions is exactly the effective, flexible, creative approach envisioned by this passage in the FIFRA CMS. EPA has the ability to prevent illegal imports from entering the country without expending the resources necessary to conduct inspections at a port of entry. The Report focuses almost exclusively on inspections and does not adequately identify how NOAs provide an enforcement presence and serve a valuable function as a compliance monitoring tool. As presented, the Report may lead readers to believe that people are at risk when the number of inspections decline, when in fact, other compliance monitoring tools, like NOA reviews, provide a strong enforcement presence and deterrent effect. The Report identifies the number of NOA reviews in FY16 (almost 50,000) and FY15 (almost 33,000) conducted by the regions, but overlooks the significance of these efforts. These are an important, less resource intensive, more cost effective way to accomplish compliance monitoring goals for imports.

OIG Response to Recommendation 1: This recommendation is unresolved. In response to the EPA's comments on the draft report, the OIG has modified the wording of this recommendation in the final report to better clarify the intent of the recommendation. The OIG is recommending that OECA set an aspirational inspection frequency that is more in alignment with the resources available to EPA regions for conducting import inspections. In the EPA's supplemental response, the agency proposed a corrective action to identify opportunities for strengthening internal controls, establishing goals, and communicating progress specifically for non-inspection activities. However, this action does not meet the intent of the recommendation. The OIG sees weaknesses in how the EPA establishes aspirational inspection frequency and the agency's supplemental corrective action committed to identifying opportunities for strengthening internal controls for only non-inspection import-related activities.

Recommendation 2: Implement internal controls to monitor and communicate progress on regional goals.

OECA disagrees in part and agrees in part. To the extent this recommendation focuses on monitoring and communicating progress on regional *inspections*, OECA disagrees that current monitoring is inadequate. Developing and reporting annual commitments through the ACS process is part of an agency-wide effort that includes detailed guidance and procedures. However, OECA agrees with the OIG that there may be an opportunity to improve the Agency's internal controls to better track and monitor the other types of EPA activities, outcomes, and benefits of our imports compliance monitoring and enforcement program. Such improvement in tracking will allow OECA to better communicate the Agency's ability to effectively intercept and deter noncompliant and potentially harmful pesticide imports in our effort to protect human health and the environment. OECA therefore proposes as a corrective action that we consider opportunities for enhancement of current capabilities to improve tracking of import-related compliance assurance activities, allowing better communication of regional accomplishments.

This will build upon existing efforts to track, monitor and communicate progress on regional goals through ACS, through the two National Pesticide Meetings per year, and the annual FIFRA Enforcement Managers Meeting during which these specific issues are discussed. Existing efforts also include the internal monthly import calls as well as monthly pesticide calls with regional, OECA and OPP representatives in attendance. Further, import inspections conducted by state grantees are well-monitored because they are only performed at the request of EPA and the results are referred to EPA for enforcement response, if necessary.

OIG Response to Recommendation 2: This recommendation is unresolved. In both the EPA's official response and supplemental response, the proposed corrective action does not address monitoring of import inspections and sampling; it focuses on tracking non-inspection compliance and enforcement assurance activities. Since the proposed action does not also address monitoring and reporting of import inspections and sampling, it does not meet the full intent of the OIG recommendation.

Recommendation 3: Develop agency guidance and training on how EPA regions can use the Automated Commercial Environment System for regional targeting of importers, manufacturers and pesticide products.

EPA agrees with the recommendation that more training in this area will be helpful for the regions as they learn how best to use ACE for targeting. Therefore, OECA will continue its efforts in developing and providing guidance and training on how EPA regions can use the Automated Commercial Environment System. EPA has already been working closely with each region to ensure that all regions have staff with access to ACE and have been trained in the basic functions of the system, as well as the enhanced capabilities available through ACE in particular.

OECA conducted a training pilot before ACE was fully implemented in December 2016 to ensure that EPA regions set up group email boxes to receive email notifications from the ACE system for electronically submitted NOAs, and that each person responsible for the review and approval of NOAs had the proper training required by CBP in order to receive their ACE user access. EPA and CBP scheduled "war room" meetings with participating importers to conduct "live" runs of submissions of electronic NOAs. The "war room" sessions enabled EPA staff to learn: the steps to review labels submitted electronically in ACE, how to gather and download data about the importers and their import shipments, and how to electronically approve completed NOAs.

In addition, OECA has already conducted numerous regional, group, and one-on-one "live" webinar training sessions to provide an introduction on how regional staff can generate, modify and schedule ACE reports. OECA will continue to offer these training sessions and will also be available upon request on an individual basis. As the regional staff become more comfortable with the electronic system, trainings will be expanded to cover the more unique features of the system which will greatly enhance regional targeting capabilities.

The move from the old paper process to the ACE/ITDS electronic process will take time for both the trade community to make the transition and for the regions to become familiar with how ACE handles these filings, how to review the records in ACE, and how to utilize appropriate actions/messaging to the filer for each review. As the number of NOA filings in ACE increase, the number of inquiries from the trade community on how to use the system increase, as does the number of filing errors that require review and amendment. In addition, time and effort will also be spent utilizing relevant features in ACE as part of the regions' overall operational coordination with CBP. While several of the large importers are filing NOAs successfully in ACE, we expect the transition will take at least a year for the overall trade community to become proficient at filing NOAs electronically rather than on paper. Developing regional expertise with the ACE system will also take time.

OIG Response to Recommendation 3: This recommendation is unresolved. The agency's proposed corrective action does not address the full intent of the OIG recommendation to provide both guidance and training to all EPA regions. In the agency's supplemental response, the revised corrective action is responsive to regional training, but it does not address the issue of developing guidance that is included in this recommendation.

Recommendation 4: Direct each EPA region to develop guidance or protocols that define how the region will coordinate with local U.S. Customs and Border Protection offices on illegal pesticides that are imported without Notices of Arrival.

OECA agrees with this recommendation. OECA understands the OIG's concern that each region's relationship with CBP is specific to that region and may result in some inconsistencies in approaches nationally, and agrees with the OIG's observation, as stated in the Report, that new ACE capabilities with respect to processing NOAs provide an opportunity for the regions to have a more consistent and effective working relationship with CBP. OECA will commit to requesting each region to draft a functional protocol for how they coordinate with local CBP offices on illegal pesticides that are imported outside of the normal NOA process.

It is worth noting that as of May 18th for commonly identified pesticide products and potential devices, all filers must either file a NOA or indicate that they do not need to file a NOA (based on their understanding of FIFRA requirements). ACE will provide the ability for the EPA regions to periodically check the filings where the filers say they do not need to file a NOA to see if they in fact should have filed one. EPA regions have not had visibility into those who did not file NOAs in the past.

This new technical capability will allow CBP and EPA to become more effective at identifying unlawful importation of pesticides. Additional guidance and protocols will be considered as the new system is, over the course of this inaugural year, implemented and enforcement practitioners at both agencies learn the nuances of the program and the need for guidance or protocols.

OIG Response to Recommendation 4: This recommendation is resolved. The OIG accepts the proposed corrective action and scheduled completion date.

Not in Agreement

No.	Recommendation	Agency Explanation/Response	Proposed Corrective Action
1	Strengthen internal controls by establishing national compliance monitoring goals based on assessment and consideration of available regional resources.	Assessment and consideration of available regional resources is already conducted and is represented by the Annual Commitment System (ACS).	No further action proposed.
2	Implement internal controls to monitor and communicate progress on regional goals.	Existing internal controls regarding inspections exist through the ACS development and tracking process, National Pesticide Meetings, annual FIFRA Enforcement Managers Meeting, internal monthly import calls, monthly pesticide calls with regional, OECA and OPP representatives, and EPA-requested import inspections conducted by state grantees.	By September 30, 2019, consider opportunities for enhancement of current capabilities to improve tracking of non-inspection, import-related compliance assurance activities, allowing better communication of regional accomplishments.

In Agreement

No.	Recommendation	Agency Explanation/Response	Proposed Corrective Action
3	Develop agency guidance and training on how EPA regions can use the Automated Commercial Environment System for regional targeting of importers, manufacturers and pesticide products.	We can expand training efforts, working closely with the Office of Environmental Information (OEI) and the regions to implement the new ACE/ITDS system. Learning the system and how to use its new capabilities is considered critical for successful implementation of ACE/ITDS. OECA will continue this effort in group settings and one-on-one trainings.	Conduct at least two (2) new group training webinars and one-on-one personal trainings, upon request, by September 30, 2018.

No.	Recommendation	Agency Explanation/Response	Proposed Corrective Action
4	Direct each EPA region to develop guidance or protocols that define how the region will coordinate with local U.S. Customs and Border Protection offices on illegal pesticides that are imported without Notices of Arrival.	<p>Since each regional office deals with different US CBP District Offices which are uniquely managed, each region has established its own protocol for how EPA and CBP interact regarding pesticide imports. The issue concerning pesticide products being imported without filing an NOA is partly being addressed through the new ACE/ITDS system which will have the capability to identify products commonly identified as pesticides and require them to file an NOA or explain why they do not need to file an NOA. Regions will have the ability to check those non-filers to see if, in fact, they should have filed an NOA.</p> <p>Nevertheless, each region should have an established protocol providing guidance on how CBP and each region should interact to share information about illegal pesticide imports.</p>	OECA will request each region memorialize a functional protocol for how they will coordinate with local CBP offices on illegal pesticides being imported without NOAs. Regions will be asked to have their protocols in place by September 30, 2018.

Agency Supplemental Response to Draft Report



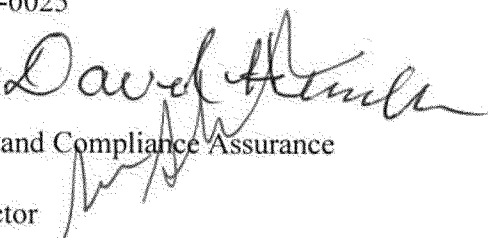
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 16 2017

MEMORANDUM

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

SUBJECT: Supplemental Response to the Office of Inspector General Draft Report: "EPA Can Better Reduce Risks From Illegal Pesticide Imports," dated June 27, 2017, Report No. OPE-FY16-0025

FROM: David Hindin, Director 
Office of Compliance
Office of Enforcement and Compliance Assurance

Susan Shinkman, Director
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance

TO: Jeffrey Harris, Director
Toxics, Chemical Management and Pollution Prevention Evaluations
Office of Program Evaluation
Office of Inspector General

On August 16, 2017, Jeffrey Harris, Ganesa Curley, and Steve Weber of the Office of Inspector General (OIG) met with managers and staff from OC and OCE. The parties discussed OECA's July 27, 2017 Response to the OIG Draft Report: EPA Can Better Reduce Risks From Illegal Pesticide Imports. Presented below are changes to the table in OECA's Response that the parties discussed would be acceptable for consideration in the OIG's final report:

No.	Recommendation	Agency Explanation/Response	Proposed Corrective Action
1	Strengthen internal controls by establishing national compliance monitoring goals based on assessment and consideration of available regional resources.	Assessment and consideration of available regional resources for inspections are already conducted and is represented by the Annual Commitment System (ACS).	By September 30, 2019, for non-inspection import-related compliance assurance activities, identify opportunities for strengthening internal controls, establishing goals, and communicating progress of regional accomplishments.
2	Implement internal controls to monitor and communicate progress on regional goals.	Existing internal controls regarding inspections exist through the ACS development and tracking process, National Pesticide Meetings, annual FIFRA Enforcement Managers Meeting, internal monthly import calls, monthly pesticide calls with regional, OECA and OPP representatives, and EPA-requested import inspections conducted by state grantees.	
3	Develop agency guidance and training on how EPA regions can use the Automated Commercial Environment System for regional targeting of importers, manufacturers and pesticide products.	We can expand training efforts, working closely with the Office of Environmental Information (OEI) and the regions to implement the new ACE/ITDS system. Learning the system and how to use its new capabilities is considered critical for successful implementation of ACE/ITDS. OECA will continue this effort in group settings and one-on-one trainings.	Conduct at least two (2) new group training webinars by September 30, 2018.
4	Direct each EPA region to develop guidance or protocols that define how the region will coordinate with local U.S. Customs and Border Protection offices on illegal pesticides that are imported without Notices of Arrival.	Since each regional office deals with different US CBP District Offices which are uniquely managed, each region has established its own protocol for how EPA and CBP interact regarding pesticide imports. The issue concerning pesticide products being imported without filing an NOA is partly being addressed through the new	OECA will request each region memorialize a functional protocol for how they will coordinate with local CBP offices on illegal pesticides being imported without NOAs. Regions will

		<p>ACE/ITDS system which will have the capability to identify products commonly identified as pesticides and require them to file an NOA or explain why they do not need to file an NOA. Regions will have the ability to check those non-filers to see if, in fact, they should have filed an NOA.</p> <p>Nevertheless, each region should have an established protocol providing guidance on how CBP and each region should interact to share information about illegal pesticide imports.</p>	<p>be asked to have their protocols in place by September 30, 2018.</p>
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If you have any questions or concerns, please contact the OECA Audit Liaison, Gwendolyn Spriggs, at (202) 564-2439.

cc: Rosemarie Kelley, OECA/OCE
Gregory Sullivan, OECA/OCE
Lauren Kabler, OECA/OCE
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Deputy Assistant Administrator for Chemical Safety and Pollution Prevention
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance
Audit Follow-Up Coordinator, Office of Chemical Safety and Pollution Prevention

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From: OIG News
Sent: Mon 8/14/2017 1:41:35 PM
Subject: OIG Report: "Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund"
[_epaoig_20170814-17-F-0365_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund* (Report No. 17-F-0365). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Financial Management

Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund

Report No. 17-F-0365

August 14, 2017



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Abbreviations

EPA	U.S. Environmental Protection Agency
FMFIA	Federal Managers' Financial Integrity Act
FY	Fiscal Year
OIG	Office of Inspector General
OMB	Office of Management and Budget
PRIA	Pesticide Registration Improvement Act

Cover photo: Pesticides being applied. (EPA photo)

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At a Glance

Why We Did This Review

The Pesticide Registration Improvement Act (PRIA) requires that we perform an annual audit of the Pesticide Registration Fund (known as the PRIA Fund) financial statements.

To expedite the registration of certain pesticides, Congress authorized the U.S. Environmental Protection Agency (EPA) to assess and collect pesticide registration fees. The fees collected are deposited into the PRIA Fund. The agency is required to prepare financial statements that present financial information about the PRIA Fund. PRIA also requires the establishment of decision time review periods for pesticide registration actions, and requires the Office of Inspector General to perform an analysis of the agency's compliance with those review periods.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund

Disclaimer of Opinion

We rendered a disclaimer of opinion on the PRIA Fund financial statements for fiscal years (FY) 2016 and 2015, meaning that we were unable to obtain sufficient evidence to determine if they were fairly presented and free of material misstatement.

Due to the material weakness in internal controls noted, the agency cannot provide reasonable assurance that financial data provided for the PRIA Fund accurately reflect the agency's financial activities and balances.

Internal Control Material Weakness Noted

We noted a material weakness in that the EPA cannot adequately support its FY 2016 PRIA Fund costs. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and amounts appropriated by Congress. In FY 2016, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. Because this issue was noted in prior audit reports and the agency is taking corrective actions, we make no new recommendations for this material weakness.

Compliance With Applicable Laws and Regulations

We did not identify any noncompliances that would result in a material misstatement to the audited financial statements.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

August 14, 2017

MEMORANDUM

SUBJECT: Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund
Report No. 17-F-0365

FROM: Paul C. Curtis, Director
Financial Statement Audits

TO: Wendy Cleland-Hamnett, Acting Assistant Administrator
Office of Chemical Safety and Pollution Prevention

David Bloom, Acting Chief Financial Officer

This is our report on the audit of the U.S. Environmental Protection Agency's (EPA's) fiscal years 2016 and 2015 financial statements for the Pesticide Registration Fund, conducted by the Office of Inspector General (OIG). The project number for this audit was OA-FY17-0087.

This report contains no recommendations, and you are not required to respond to this report. However, if you submit a response, it will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Inspector General's Report on the Fiscal Years 2016 and 2015 Financial Statements for the Pesticide Registration Fund

The Administrator
U.S. Environmental Protection Agency

Report on the Financial Statements

We have audited the accompanying financial statements of the Pesticide Registration Fund (known as the PRIA Fund), which comprise the balance sheet as of September 30, 2016, and September 30, 2015, and the related statements of net cost, changes in net position, and statement of budgetary resources for the years then ended; and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America. This includes the design, implementation and maintenance of internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with generally accepted government auditing standards; the standards applicable to financial statements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 15-02, *Audit Requirements for Federal Financial Statements*. Because of the matter described in the Basis for Disclaimer of Opinion section, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

The U.S. Environmental Protection Agency (EPA) cannot adequately support payroll liabilities on the PRIA Fund's Balance Sheet as of September 30, 2016 and 2015; and Income/Expense from other appropriations on the statements of the PRIA Fund's Net Costs and Changes in Net Position for the years ended September 30, 2016 and 2015.

In fiscal years (FYs) 2016 and 2015, the EPA allocated its pesticides appropriated funding to pay for payroll costs. By paying significant payroll amounts from appropriations versus from fees collected by the PRIA Fund, the EPA lost the audit trail to properly support how much of the PRIA payroll expenses were paid for by appropriations. We were unable to satisfy ourselves by other audit procedures concerning the adequacy of the amounts allocated, consistency of application, or reasonableness of the payroll expenses between the PRIA Fund and the EPA's other pesticide programs, including payroll accruals, as of and for the years ended September 30, 2016 and 2015. As a result, we were unable to determine whether any adjustments were necessary relating to payroll and related accounts, income/expense from other appropriations, and payroll liabilities.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion section above, we have not been able to obtain sufficient, appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the PRIA Fund's financial statements, and the related accompanying notes as of and for the years ended September 30, 2016 and 2015.

Report on Internal Control Over Financial Reporting

Opinion on Internal Controls. In planning and performing our audit, we considered the EPA's internal controls over financial reporting by obtaining an understanding of the agency's internal controls, determining whether internal controls had been placed in operation, assessing control risk, and performing tests of controls. We did this as a basis for designing our auditing procedures for the purpose of expressing an opinion on the financial statements and to comply with OMB audit guidance, not to express an opinion on internal control. Accordingly, we do not express an opinion on internal control over financial reporting nor on management's assertion on internal controls included in Management's Discussion and Analysis. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 15-02, *Audit Requirements for Federal Financial Statements*. We did not test all internal controls relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

Material Weakness and Significant Deficiencies. Our consideration of the internal controls over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. A deficiency in internal controls exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will

not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Because of inherent limitations in internal controls, misstatements, losses or noncompliance may nevertheless occur and not be detected. We noted a certain matter, discussed below and detailed in Attachment 1 and Prior Audit Coverage, involving internal control and its operation that we consider to be material.

Material Weakness

The EPA cannot adequately support its FY 2016 PRIA Fund costs. OMB policy states that basic financial statements include a Balance Sheet and Statement of Net Costs, and that the statement of net costs should include the net costs of operations. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and from amounts appropriated by Congress. In FY 2016, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. The EPA developed an allocation methodology to distribute costs funded by EPA appropriations back to the PRIA Fund, but the methodology is based upon inconsistent charging of payroll costs between the PRIA Fund and EPA appropriations.

Because the EPA cannot adequately support total FY 2016 PRIA Fund costs and liabilities, and because we were unable to determine by other audit procedures the adequacy of amounts allocated, consistency of application, or reasonableness of net costs and liabilities, we disclaimed an opinion on the PRIA Fund's FY 2016 financial statements. We consider the EPA's inability to support the PRIA Fund payroll costs a material weakness.

Comparison of EPA's FMFIA Report With Our Evaluation of Internal Controls

OMB Bulletin No. 15-02, *Audit Requirements for Federal Financial Statements*, requires the OIG to compare material weaknesses disclosed during the audit with those material weaknesses reported in the agency's FMFIA report that relate to the financial statements, and identify material weaknesses disclosed by the audit that were not reported in the agency's FMFIA report. The agency's FMFIA report is prepared and submitted at the Consolidated level, of which the PRIA Fund is a component.

The agency did not report any material weakness for FY 2016, at the consolidated level, impacting the PRIA Fund.

Tests of Compliance With Laws, Regulations, Contracts and Grant Agreements

The EPA management is responsible for complying with laws, regulations, contracts and grant agreements applicable to the agency. As part of obtaining a reasonable assurance as to whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, including those governing the use of budgetary authority, regulations, contracts and grant agreements that have a direct effect on the determination of material amounts and disclosures in PRIA Fund financial statements. The objective of our audit, including our tests of compliance with applicable laws, regulations, contracts, and grant agreements, was not to provide an opinion on compliance with such provisions. Accordingly, we do not express such an opinion. We did not identify any instances of noncompliance that would result in a material misstatement to the audited financial statements.

Management's Discussion and Analysis Section of the Financial Statements

Our audit work related to the information presented in the Management's Discussion and Analysis of the pesticide program included comparing the overview information with information in the EPA's principal financial statements for consistency. We did not identify any material inconsistencies between the information presented in the two documents.

Prior Audit Coverage

During a previous audit of the PRIA financial statements—*Fiscal Years 2014 and 2013 Financial Statements for the Pesticide Registration Fund* (Report No. 16-F-0323), issued September 22, 2016—we reported a material weakness regarding inadequate support of costs. We reported the same issue in the next audit report for the PRIA Financial Statements—*Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund* (Report No. 17-F-0315, issued July 10, 2017). Specifically, the EPA's Office of Pesticide Programs receives its funding both from fees paid by pesticide manufacturers and from amounts appropriated by Congress. In both FYs 2014 and 2015, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs.

The agency agreed with our findings in the prior reports and is in the process of correcting this weakness. The agency indicated it believes the timekeeping system's cost allocation enhancement will allow for the creation of an audit trail to capture costs incurred by the PRIA Fund and other appropriations that support PRIA-related activities. The agency went live with this new enhancement in October 2016. However, for the FY 2016 financial statements, this continues to be an audit issue, and is considered a material weakness and the basis for the disclaimer of opinion for the FY 2016 statements.

Agency Comments

There are no recommendations in this report, and the agency had no comments.



Paul C. Curtis
Certified Public Accountant
Director, Financial Statement Audits
Office of Inspector General
U.S. Environmental Protection Agency
August 11, 2017

Material Weakness

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1 – EPA Cannot Adequately Support PRIA Fund Costs

The EPA cannot adequately support its FY 2016 PRIA Fund costs. OMB policy states that basic financial statements include a Balance Sheet and Statement of Net Costs, and that the statement of net costs should include the net costs of operations. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and from amounts appropriated by Congress. In FY 2016, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. The EPA developed an allocation methodology to distribute costs funded by EPA appropriations back to PRIA, but the methodology is based upon inconsistent charging of payroll costs between the PRIA Fund and EPA appropriations. Because the EPA cannot adequately support total FY 2016 PRIA Fund costs and liabilities, and because we were unable to determine by other audit procedures the adequacy of amounts allocated, consistency of application, or reasonableness of net costs and liabilities, we disclaimed an opinion on PRIA's FY 2016 financial statements. We consider the EPA's inability to support the PRIA Fund payroll costs a material weakness.

PRIA requires that a set of financial statements be prepared to provide an annual accounting of expenditures and collections for the PRIA program. OMB Circular A-136 requires that these statements include a Statement of Net Costs, under which net costs of operations are reported. The PRIA Fund's costs of operations are supported by several sources: maintenance fees, registration and reregistration fees, and EPA appropriations.

In FY 2016, the EPA allocated its pesticide funding to use appropriated amounts that would expire, and to retain funding received from fees. Significant payroll amounts were paid from appropriations and not charged directly to PRIA. This resulted in the loss of the audit trail for reporting separate PRIA Fund costs. The EPA adopted an allocation methodology to determine the amount of appropriated dollars used to support the PRIA Fund and the EPA's other pesticide programs. However, this methodology is based upon inconsistent and arbitrary charging of the Office of Pesticide Programs' payroll costs between the PRIA Fund and the EPA's other pesticide programs. The inconsistent and arbitrary charging makes the allocation base unreliable, and the methodology cannot support the PRIA Fund operations costs. We consider the inability of the EPA to support FY 2016 PRIA Fund costs to be a material weakness.

We did not determine overall payroll costs for the EPA's pesticide programs to be inaccurate. Our findings are limited to the specific allocation of appropriated amounts to cover payroll costs of the EPA's pesticide programs and accounting for those costs at the program level. At the program level (specifically, for the PRIA Funds), the agency could not provide adequate support, and we could not audit the payroll costs for those funds paid for by appropriated amounts to opine on the adequacy of such amounts.

We previously reported on this issue in the FYs 2014 and 2015 PRIA Fund financial statement audit reports, and the agency agreed with our finding and is taking actions to correct this material weakness. The agency indicated it believes the timekeeping system's cost allocation enhancement will allow for the creation of an audit trail to capture costs incurred by the PRIA

Fund and other appropriations that support PRIA-related activities. The agency went live with this new enhancement in October 2016. We will evaluate the effectiveness of this cost allocation enhancement during our audit of the FY 2017 PRIA Fund financial statements. However, for the FY 2016 financial statements, this continues to be an audit issue, and is considered a material weakness and the basis for the disclaimer of opinion for the FY 2016 statements.

Because this issue was noted in prior audit reports and the agency is taking corrective actions, we make no new recommendations for this material weakness.

Fiscal Years 2016 and 2015 Pesticide Registration Fund Financial Statements



*Produced by the U.S. Environmental Protection Agency
Office of the Chief Financial Officer
Office of Controller*

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Management's Discussion and Analysis

EPA's FY 2016 Annual PRIA Financial Statements

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, the EPA's Pesticide Program registers new pesticides and re-evaluates existing pesticides to ensure that they can be used safely and that levels of residue in food and animal feed are safe (there is a reasonable certainty of no harm). The agency must also conclude that, when used in accordance with labeling and common practices, the product will not generally cause unreasonable adverse effects on the environment.

The Pesticide Registration Improvement Act (PRIA) of 2003 established the Pesticide Registration Fund. PRIA authorizes the collection of Registration service fees, which are deposited into the Registration Fund and made available for obligation to the extent provided in appropriation acts, and are available without fiscal year limitation.

Pesticide Registration

Under FIFRA and FFDCA pesticides must be registered by the EPA. The passage of PRIA introduced deadlines for the agency to complete certain registration actions. EPA expedites the registration of reduced-risk pesticide uses, which generally pose lower risks to people and the environment. Accelerated pesticide reviews provide an incentive for industry to develop and register lower risk pesticides, and the availability of these reduced-risk pesticides provides alternatives to older, potentially more harmful products currently on the market.

PRIA prescribed the amount of the registration service fee and the corresponding decision review time for various categories of registration action. The goal is to create a more predictable evaluation process for affected pesticide registrants and couple the collection of individual fees with specific decision-making periods. The legislation also promotes shorter decision review periods for reduced-risk pesticide applications. PRIA 1, effective on March 23, 2004, authorized collection of registration fees through FY 2008. The Pesticide Registration Improvement Renewal Act (PRIA 2), effective on October 1, 2007, authorized collection of registration fees through FY 2012. The Pesticide Registration Improvement Extension Act (PRIA 3) was effective on October 1, 2012, authorized collection of registration fees through FY 2017.

For a pending or a new application covered by PRIA to be deemed complete and subject to the decision review periods, a registrant is required to pay the applicable fee or receive a waiver from the fee. For most applications, the decision review period starts 21 days after submission of the application, provided that the fee has been paid, fee waiver granted or in the case of a 75% or 50% fee waiver under PRIA 3, the waiver has been granted and the remaining fee has been paid. The legislation provides fee waivers for certain categories of small businesses and minor uses¹.

¹ Minor use pesticides are those that produce relatively little revenue for their manufacturers, for a variety of reasons. They may be registered for a seldom seen pest, or for a crop that is not grown by a large number of producers. However, minor crops include some high revenue fruit, vegetable, and ornamental crops.

Exemption from the requirement to pay a registration service fee is continued under PRIA 3 for applications solely associated with IR-4 petitions². Applications from federal and state agencies are also exempt from registration service fees. If the registrant requests a waiver or reduction of the fee, the decision review period will begin when the agency grants such request or in the case of small business fee waivers, no more than 60 days after receipt of the waiver application. If the agency determines that a fee is required and the waiver is not granted, the decision review period starts after the fee is collected.

Applications received prior to October 1, 2007, were covered by PRIA 1. Applications received between October 1, 2007 and September 30, 2012, were covered by PRIA 2³ and applications received on or after October 1, 2012, are covered by PRIA 3. PRIA 3 contains the same audit provision as PRIA 2. PRIA 3 includes new authority to reject an application if it fails a preliminary technical screen. PRIA 3 also increases the fee categories or types of applications covered by PRIA from 140 to 189 and maintains set-asides to support worker protection and applicator training activities as well as IPM grants at levels comparable to PRIA 2.

Enforcement and Compliance Assurance Program Description

The Pesticide Enforcement and Compliance Assurance Program focuses on pesticide product and user compliance. These include problems relating to pesticide worker safety, certification and training of applicators, ineffective antimicrobial products, food safety, adverse effects, risks of pesticides to endangered species, pesticide containers and containment facilities, and e-commerce and misuse. The enforcement and compliance assurance program provides compliance assistance to the regulated community through its National Agriculture Compliance Assistance Center, seminars, guidance documents, brochures, and other forms of communication to ensure knowledge of and compliance with environmental laws.

EPA's grant support to state and tribal pesticide programs emphasizes its commitment to maintaining a strong compliance and enforcement presence. Agency FIFRA Cooperative Agreement priorities for FY 2015 – FY 2017 include the enforcement of worker protection standards and pesticide applicator certification; compliance monitoring and enforcement activities related to the pesticide container and containment rules, the revised soil fumigant labels, compliance of supplemental distributor products, contact manufacturing and program performance reporting. Core program activities include inspections of producing establishments; dealers/distributors/retailers; e-commerce; imports and exports, and pesticide misuse.

² The IR-4 (Interregional Research Project No.4) program is involved in making sure that pesticides are registered for use on minor crops. IR-4 helps by conducting research on minor use pesticides, pesticides that would not otherwise be profitable to manufacture.

³Out of approximately 7,889 actions completed under PRIA 2, more than 99.0% were completed on or before the PRIA 2 due date.

Additionally, through the Cooperative Agreements we support inspector training and training for state/tribal senior managers, scientists, and supervisors.

Highlights and Accomplishments

Registration Financial Perspective

During FY 2016, the Agency's obligations charged against the PRIA Fund for the cost of registration were \$18.7 million and 60.8 work-years. Of this amount, OPP obligated \$8.4 million in PC&B.

Appropriated funds are used in addition to Registration funds. In FY 2016, the Enacted Operating Plan included approximately \$32.6 million in appropriated funds for registration activities.

The Fund has two types of receipts: fee collections and interest earned on investments. Of the \$19.1 million in FY 2016 net receipts, more than 99.9% were fee collections.

Registration Program Performance Measures

The following measures support the program's strategic goals ensuring the safety of chemicals and Pollution Prevention.

Measure 1: Number of new active ingredients registered.

Results: In FY 2016, EPA registered 20 new active ingredients, including 13 biopesticides, 3 antimicrobials, and 4 conventional pesticides. In addition, EPA approved an import tolerance for 2 new active ingredients. This measure includes both reduced-risk and non-reduced-risk pesticides.

Measure 2: Progress in Registering Reduced-risk Pesticides.

Results: In FY 2016, EPA registered 8 reduced-risk new active ingredients, all of which were biopesticides. Biological pesticides are derived from such natural materials as animals, plants, bacteria, and certain minerals. They are usually less toxic and are typically considered safer pesticides than the traditional conventional chemicals; therefore, the 8 biopesticide new active ingredients are counted as reduced-risk pesticides. Conventional "reduced risk" pesticides have one or more of the following advantages over currently registered pesticides: low impact on human health, low toxicity to non-target organisms, low potential for groundwater contamination, lower use rates, low pest resistance potential, and compatibility with integrated pest management strategies.

Measure 3: Number of New Food Uses Registered.

Results: EPA registered 207 new food uses for previously registered active ingredients. Of these new uses, 203 food uses were for conventional pesticides, 1 was for an antimicrobial pesticide, and 3 were for biopesticides.

Measure 4: Progress in Registering Reduced-risk New Uses.

Results: Included in the new food uses registered are 24 reduced-risk use associated with 5 conventional pesticides, as well as the 3 biopesticide new uses, for a total of 27 reduced-risk new uses.

**PRINCIPAL
FINANCIAL STATEMENTS**

EPA's FY 2016 Annual PRIA Financial Statements

Principal Financial Statements

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United States Environmental Protection Agency
PRIA
Balance Sheet
As of September 30, 2016 and 2015
(Dollars in Thousands)

	<u>FY 2016</u>	<u>FY 2015</u>
Assets:		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 22,471	\$ 20,658
Other (Note 3)	<u>8</u>	<u>6</u>
Total Intragovernmental	22,479	20,664
Accounts Receivable, Net (Note 5)	-	15
Property, Plant & Equipment, Net (Note 4)	<u>1,536</u>	<u>1,900</u>
Total Assets	<u>\$ 24,015</u>	<u>\$ 22,579</u>
Liabilities:		
Intragovernmental:		
Accounts Payable and Accrued Liabilities	59	25
Other (Note 5)	<u>248</u>	<u>204</u>
Total Intragovernmental	307	229
Accounts Payable & Accrued Liabilities	602	555
Payroll & Benefits Payable (Note 6)	1,640	1,673
Other (Note 5)	<u>20,494</u>	<u>19,104</u>
Total Liabilities	<u>\$ 23,043</u>	<u>\$ 21,561</u>
Net Position:		
Cumulative Results of Operations - Funds from Dedicated Collections	972	1,018
Total Net Position	972	1,018
Total Liabilities and Net Position	<u>\$ 24,015</u>	<u>\$ 22,579</u>

The accompanying footnotes are an integral part of these financial statements

United States Environmental Protection Agency
PRIA
Statement of Net Cost
For the Fiscal Years Ending September 30, 2016 and 2015
(Dollars in Thousands)

	<u>FY 2016</u>	<u>FY 2015</u>
Costs:		
Gross Costs (Note 9)	\$ 17,754	\$ 16,136
Expenses from Other Appropriations (Note 7)	<u>31,134</u>	<u>38,346</u>
Total Costs	48,888	54,482
Less:		
Earned Revenue (Note 8 and 9)	<u>20,677</u>	<u>18,985</u>
Net Cost of Operations	<u>\$ 28,211</u>	<u>\$ 35,497</u>

The accompanying footnotes are an integral part of these financial statements

For the Fiscal Years Ending September 30, 2016 and 2015
(Dollars in Thousands)

	<u>FY 2016</u>	<u>FY 2015</u>
Cumulative Results of Operations:		
Net Position - Beginning of Period	\$ 1,018	\$ 1,881
Beginning Balances	<u>1,018</u>	<u>1,881</u>
Budgetary Financing Sources:		
Nonexchange Revenue - Securities Investment	15	1
Nonexchange Revenue - Other	(3,435)	(4,067)
Transfers In/Out	-	(164)
Income from Other Appropriations (Note 7)	<u>31,134</u>	<u>38,346</u>
Total Budgetary Financing Sources	27,714	34,116
Other Financing Sources (Non-Exchange)		
Imputed Financing Sources	<u>451</u>	<u>518</u>
Total Other Financing Sources	451	518
Net Cost of Operations	(28,211)	(35,497)
Net Change	(46)	(863)
Cumulative Results of Operations	<u><u>\$ 72</u></u>	<u><u>1,018</u></u>

The accompanying footnotes are an integral part of these financial statements

United States Environmental Protection Agency
PRIA
Statement of Budgetary Resources
For the Fiscal Years Ending September 30, 2016 and 2015
(Dollars in Thousands)

	FY 2016	FY 2015
Budgetary Resources		
Unobligated balance, brought forward, October 1:	\$ 13,540	\$ 12,510
Unobligated Balance Brought Forward, October 1	13,540	12,510
Recoveries of prior year unpaid obligations	366	227
Unobligated balance from prior year budget authority, net	13,906	12,737
Appropriations (discretionary and mandatory)	18,609	16,081
Spending Authority from offsetting collection (discretionary and mandatory)	-	(14)
Total Budgetary Resources	\$ 32,515	\$ 28,804
 Status of Budgetary Resources		
Obligations Incurred	19,626	15,264
Unobligated Balance, end of year:		
Apportioned	9,355	13,540
Unapportioned	3,533	-
Total Unobligated balance, end of period	12,889	13,540
Total Status of Budgetary Resources	\$ 32,515	\$ 28,804
 Change in Obligated Balance		
Unpaid Obligations:		
Unpaid obligations, brought forward, October 1 (gross)	6,285	5,338
Obligated balance, start of year (net), before adjustments	6,285	5,338
Obligated balance, start of year (net), as adjusted	6,285	5,338
Obligations incurred, net	19,626	15,264
Outlays (gross)	(16,491)	(14,090)
Recoveries of prior year unpaid obligations	(366)	(227)
Obligated balance, end of period		
Unpaid obligations, end of year (gross)	9,054	6,285
Obligated balance, end of period (net)	\$ 9,054	\$ 6,285
 Budget authority and outlays, net		
Budget authority, gross (discretionary and mandatory)	18,609	16,067
Actual offsetting collections (discretionary and mandatory)	-	14
Budget Authority, net (discretionary and mandatory)	\$ 18,609	\$ 16,081
 Outlays, gross (discretionary and mandatory)	16,491	14,090
Actual offsetting collections (discretionary and mandatory)	-	14
Outlays, net (discretionary and mandatory)	16,491	14,104
Distributed offsetting receipts	(18,304)	(16,081)
Agency outlays, net (discretionary and mandatory)	\$ (1,813)	\$ (1,977)

The accompanying footnotes are an integral part of these financial statements

Environmental Protection Agency
PRIA
Notes to Financial Statements
For the Fiscal Years Ending September 30, 2015 and 2014
(Dollars in Thousands)

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The U.S. Environmental Protection Agency (EPA or Agency) was created in 1970 by executive reorganization from various components of other Federal agencies in order to better marshal and coordinate federal pollution control efforts. The Agency is generally organized around the media and substances it regulates -- air, water, land, hazardous waste, pesticides and toxic substances.

The Pesticide Registration Fund (PRIA) is authorized under the Pesticide Registration Improvement Act of 2003 (which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)), and became effective on March 23, 2004. This Act authorizes the EPA to assess and collect pesticide registration service fees on applications submitted to register pesticides covered by this Act, as well as assess and collect fees to register new active ingredients not listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs. The Pesticide Registration Improvement Renewal Act (commonly referred to as PRIA II) extended the authority to collect pesticide registration service fees through FY 2012. PRIA II became effective October 1, 2007. PRIA II was reauthorized with the passage of the Pesticide Registration Improvement Extension Act (referred to as PRIA III) on September 28, 2012 and became effective 2 days later on October 1, 2012. The PRIA Fund is accounted for under Treasury symbol number 68X5374.

The PRIA fund may charge some administrative costs directly to the fund and charge the remainder of the administrative costs to Agency-wide appropriations. Costs funded by Agency-wide appropriations for FYs 2016 and 2015 were \$31,134 thousand and \$38,346 thousand, respectively. This amount was included as Income from Other Appropriations on the Statement of Changes in Net Position and as Expenses from Other Appropriations on the Statement of Net Cost for FYs 2016 and 2015.

B. Basis of Presentation

These financial statements have been prepared to report the financial position and results of operations of the EPA for the Pesticide Registration Fund (PRIA) as required by the Chief Financial Officers Act of 1990 and the Pesticide Registration Improvement Act (PRIA) of 2003. In the prior years, pesticide registration was included in the FIFRA financial statements. The reports have been prepared from the books and records of the EPA in accordance with Office of Management and Budget (OMB) Circular A-136 *Financial Reporting Requirements*, and the

EPA's accounting policies which are summarized in this note. These statements are therefore different from the financial reports also prepared by the EPA pursuant to OMB directives that are used to monitor and control the EPA's use of budgetary resources. The balances in these reports have been updated from the EPA consolidated financial statements to reflect the use of FY 2016 cost factors for calculating imputed costs for Federal civilian benefits programs. These updates impact the Balance Sheet, Statement of Net Cost, and Statement of Changes in Net Position.

C. Budgets and Budgetary Accounting

Funding for PRIA is provided by fees collected from industry to offset costs incurred by EPA in carrying out these programs. Each year, the EPA submits an apportionment request to OMB based on the anticipated collections of industry fees.

D. Basis of Accounting

Generally Accepted Accounting Principles (GAAP) for Federal entities is the standard prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard setting body for the federal government. The financial statements are prepared in accordance with GAAP for federal entities.

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of Federal funds. All interfund balances and transactions have been eliminated.

E. Revenues and Other Financing Sources

For FYs 2016 and 2015, PRIA received funding from fees collected from registrants requesting pesticide registrations. For FYs 2016 and 2015, revenues were recognized from fee collections to the extent that expenses are incurred during the fiscal year.

F. Funds with the Treasury

The PRIA fund deposits receipts and processes disbursements through its operating account maintained at the U.S. Department of the Treasury.

G. Investments in U. S. Government Securities

Investments in U. S. government securities are maintained by Treasury and are reported at amortized cost net of unamortized discounts. Discounts are amortized over the term of the investments and reported as interest income. PRIA holds the investments to maturity, unless

needed to finance operations of the fund. No provision is made for unrealized gains or losses on these securities because, in the majority of cases, they are held to maturity.

H. General Property, Plant and Equipment

Purchases of the EPA-held personal equipment are capitalized if the equipment is valued at \$25 thousand or more and has an estimated useful life of at least two years. Depreciation is taken on a basic straight-line method over the specific asset's useful life, ranging from two to fifteen years. The EPA shows property, plant and equipment at net of depreciation on its audited financial statements.

All funds (except for the Working Capital Fund) capitalize software if those investments are considered Capital Planning and Investment Control (CPIC) or CPIC Lite systems with the provisions of Statement of Federal Financial Accounting Standards (SFFAS) No. 10, "Accounting for Internal Use Software." Once software enters the production life cycle phase, it is depreciated using the straight-line method over the specific asset's useful life ranging from two to five years.

I. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the Agency as the result of an Agency transaction or event that has already occurred and can be reasonably estimated. However, no liability can be paid by the Agency without an appropriation or other collections. Liabilities for which an appropriation has not been enacted are classified as unfunded liabilities and there is no certainty that the appropriations will be enacted. For PRIA, liabilities are liquidated from fee receipts, since PRIA receives no appropriation. Liabilities of the Agency arising from anything other than contracts can be abrogated by the Government acting in its sovereign capacity.

J. Accrued Unfunded Annual Leave

Annual, sick and other leave is expensed as taken during the fiscal year. Sick leave earned but not taken is not accrued as a liability. Annual leave earned but not taken as of the end of the fiscal year is accrued as an unfunded liability. Accrued unfunded annual leave is included in the Balance Sheet as a component of "Payroll and Benefits Payable."

K. Retirement Plan

There are two primary retirement systems for Federal employees. Employees hired prior to January 1, 1987, may participate in the Civil Service Retirement System (CSRS). On January 1, 1984, the Federal Employees Retirement System (FERS) went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, elected to either join FERS and

Social Security or remain in CSRS. A primary feature of FERS is that it offers a savings plan to which the Agency automatically contributes one percent of pay and matches any employee contributions up to an additional four percent of pay. The Agency also contributes the employer's matching share for Social Security.

With the issuance of SFFAS No. 5, "Accounting for Liabilities of the Federal Government," accounting and reporting standards were established for liabilities relating to the federal employee benefit programs (Retirement, Health Benefits, and Life Insurance). SFFAS No. 5 requires that the employing agencies recognize the cost of pensions and other retirement benefits during their employees' active years of service. SFFAS No. 5 requires that the Office of Personnel Management (OPM), as administrator of the CSRS and FERS, the Federal Employees Health Benefits Program, and the Federal Employees Group Life Insurance Program, provide federal agencies with the actuarial cost factors to compute the liability for each program.

L. Offsetting Receipts

Beginning in FY 2007 OMB Circular A-136, *Financial Reporting Requirements*, requires that the amount of distributed offsetting receipts reported in the Statement of Budgetary Resources (SBR) should equal the amount recorded as offsetting receipts by the Department of the Treasury (Treasury). Pesticide Registration Fees collected under PRIA are considered to be offsetting receipts by Treasury.

M. Use of Estimates

The preparation of financial statements requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

N. Prior Period Adjustments and Restatements

Prior period adjustments, if any, are made in accordance with SFFAS No. 21, "Reporting Corrections of Errors and Changes in Accounting Principles." Specifically, prior period adjustments will only be made for material prior period errors to: (1) the current period financial statements, and (2) the prior period financial statements presented for comparison. Adjustments related to changes in accounting principles will only be made to the current period financial statements, but not to prior period financial statements presented for comparison.

Note 2. Fund Balance with Treasury

	FY 2016	FY 2015
Revolving Funds: Entity Assets	<u>\$ 22,471</u>	<u>\$ 20,658</u>

Note 3. Other Assets-Advances to Working Capital Fund

PRIA advances funds to the EPA's Working Capital Fund to pay for computer, postage, and other administrative support services. As of September 30, 2016 and 2015, funds advanced that will be applied to future costs as incurred were \$8 thousand and \$6 thousand, respectively.

Note 4. General Property, Plant and Equipment

General property, plant and equipment includes the EPA-Held personal property, software, and software in development.

As of September 30, 2016 and 2015, General Property, Plant and Equipment consist of the following:

	FY 2016			FY 2015		
	Acquisition Value	Accumulated Depreciation	Net Book Value	Acquisition Value	Accumulated Depreciation	Net Book Value
EPA-Held Equipment	\$ 35	(35)	-	173	(167)	6
Software	5,698	(4,162)	1,536	6,019	(4,125)	1,894
Total	<u>\$ 5,733</u>	<u>(4,197)</u>	<u>1,536</u>	<u>6,192</u>	<u>(4,292)</u>	<u>1,900</u>

Note 5. Other Liabilities

For FYs 2016 and 2015, Payroll and Benefits Payable, non-federal, are presented on a separate line of the Balance Sheet and in a separate footnote (see Note 6).

	<u>FY 2016</u>	<u>FY 2015</u>
Other Intragovernmental Liabilities - Covered by Budgetary Resources		
Employer Contributions - Payroll	\$ 248	\$ 204
Total	<u>\$ 248</u>	<u>\$ 204</u>
Other Non-Federal Liabilities - Covered by Budgetary Resources		
Advances from Non-Federal Entities	20,494	19,104
Total	<u>\$ 20,494</u>	<u>\$ 19,104</u>

Note 6. Payroll and Benefits Payable, Non-Federal:

	<u>FY 2016</u>	<u>FY 2015</u>
Covered by Budgetary Resources		
Accrued Payroll Payable to Employees	\$ 1,192	\$ 820
Withholdings Payable	54	191
Thrift Savings Plan Benefits Payable	52	41
Total	<u>\$ 1,298</u>	<u>\$ 1,052</u>
Not Covered by Budgetary Resources		
Unfunded Annual Leave	342	621
Total	<u>\$ 342</u>	<u>\$ 621</u>

At various periods throughout FY 2016 and FY 2015 employees with their associated payroll costs were transferred from PRIA to the Environmental Programs and Management (EPM) appropriation. (See graph in Note 7 below showing trend of hours charged per month to the PRIA fund for FYs 2016 and 2015.) These employees were transferred in order to keep PRIA's obligations and disbursements within budgetary limits.

This process has led to variations between the year-end liabilities of FYs 2016 and 2015. The liabilities covered by budgetary resources (both intragovernmental and non-Federal) represent unpaid payroll and benefits at year-end. For FY 2016 Pay Period 26, sixty five employees were charging a portion of their salary and benefits to PRIA. As of September 30, 2016, the liabilities were \$248 thousand and \$1,298 thousand for employer contributions and accrued funded payroll and benefits as compared to FY 2015's balances of \$204 thousand and \$1,052 thousand, respectively.

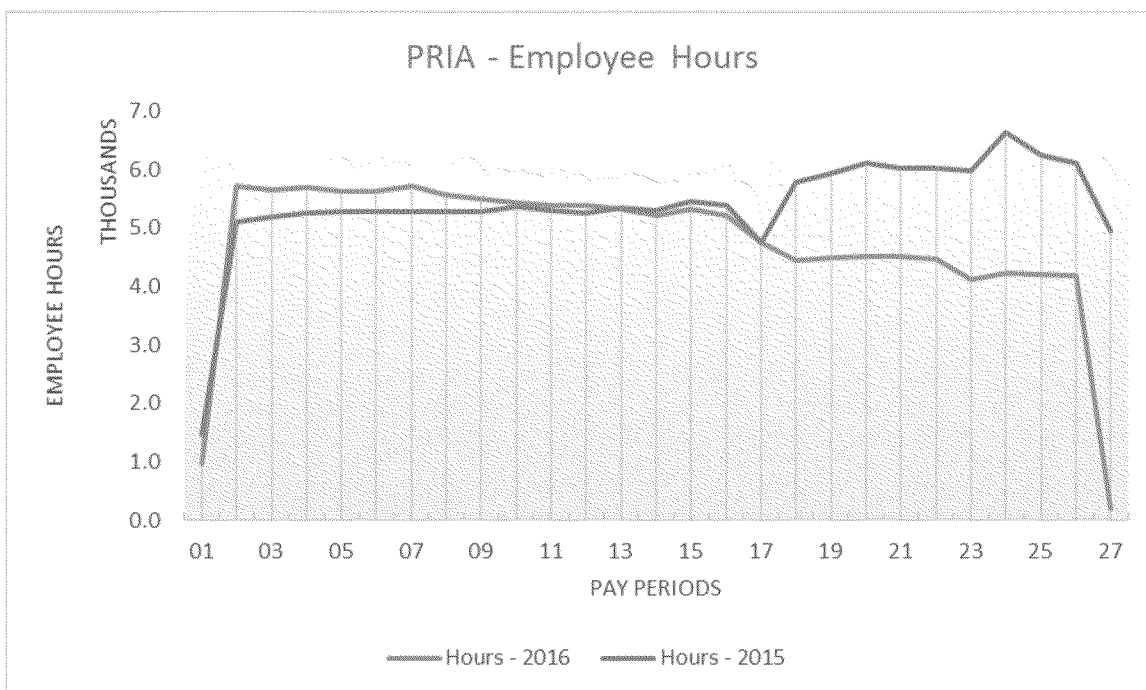
In contrast, the unfunded annual leave liability is a longer term liability than the funded liabilities. At various periods throughout FY 2016 and FY 2015, approximately 93 and 109 employees, respectively, in total have been under PRIA's accountability. As of September 30, 2016 and 2015 liability balances for unfunded annual leave were accrued to cover these employees for a total of \$342 thousand and \$621 thousand, respectively.

Note 7. Income and Expenses from Other Appropriations:

The Statement of Net Cost reports program costs that include the full costs of the program outputs and consist of the direct costs and all other costs that can be directly traced, assigned on a cause and effect basis, or reasonably allocated to program outputs.

During FYs 2016 and 2015, the EPA had two appropriations which funded a variety of programmatic and non-programmatic activities across the Agency, subject to statutory requirements. The EPM appropriation was created to fund personnel compensation and benefits, travel, procurement, and contract activities. Transfers of employees from PRIA to EPM at various times during FYs 2016 and 2015 (see Note 6) resulted in a decrease in payroll expenses in EPM, and these costs financed by EPM are reflected as a decrease in the Expenses from Other Appropriations on the Statement of Net Cost. The decreased financing from EPM is reported on the Statement of Changes in Net Position as Income from Other Appropriations.

In terms of hours charged to PRIA each month, the transfer of employees and their associated costs during FYs 2016 and 2015 are shown below.



The EPM costs related to PRIA are allocated based on specific EPM program codes which have been designated for Pesticide registration activities. As illustrated below, there is no impact on PRIA's Statement of Changes in Net Position.

	Income from Other Appropriations	Expenses from Other Appropriations	Net Effect
FY 2016	<u>\$ 31,134</u>	<u>31,134</u>	<u>-</u>
FY 2015	<u>\$ 38,346</u>	<u>38,346</u>	<u>-</u>

Note 8. Exchange Revenues, Statement of Net Cost

For FYs 2016 and 2015, the exchange revenues reported on the Statement of Net Cost consists of non-Federal amounts.

Note 9. Intragovernmental Costs and Exchange Revenue

Costs:	FY 2016	FY 2015
Intragovernmental	\$ 3,192	\$ 2,985
With the Public	14,562	13,151
Expenses from Other Appropriations	<u>31,134</u>	<u>38,346</u>
Total Costs	<u>48,888</u>	<u>54,482</u>
Revenue:		
With the Public	<u>20,677</u>	<u>18,985</u>
Total Revenue	<u>20,677</u>	<u>18,985</u>
Net Cost of Operations:	<u>\$ 28,211</u>	<u>\$ 35,497</u>

Intragovernmental costs relate to the source of the goods or services not the classification of the related revenue.

Note 10. Reconciliation of Net Cost of Operations to Budget

	FY 2016	FY 2015
Resources Used to Finance Activities:		
Budgetary Resources Obligated		
Obligations Incurred	\$ 19,626	\$ 15,264
Less: Spending Authority from Offsetting Collections and Recoveries	(366)	(213)
Obligations, Net of Offsetting Collections	19,260	15,051
Less: Offsetting Receipts	(18,304)	(16,081)
Net Obligations	956	(1,030)
Other Resources		
Imputed Financing Sources	451	518
Income from Other Appropriations	31,134	38,346
Net Other Resources Used to Finance Activities	31,585	38,864
Total Resources Used To Finance Activities	<u>\$ 32,541</u>	<u>\$ 37,834</u>
Resources Used to Finance Items		
Not Part of the Net Cost of Operations:		
Change in Budgetary Resources Obligated	(1,776)	(248)
Resources that Fund Prior Periods Expenses	(280)	-
Offsetting Receipts Not Affecting Net Cost	18,304	16,081
Resources that Finance Asset Acquisition	321	-
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>16,569</u>	<u>15,833</u>
Total Resources Used to Finance the Net Cost of Operations	<u>\$ 49,110</u>	<u>\$ 53,667</u>
Components of the Net Cost of Operations that Will		
Not Require or Generate Resources in the Current Period:		
Components Requiring or Generating Resources in Future Periods:		
Increase in Annual Leave Liability	(280)	525
Increase in Public Exchange Revenue Receivables	(20,677)	(18,985)
Total Components of Net Cost of Operations that Require or		
Generate Resources in Future Periods	(20,957)	(18,460)
Components Not Requiring/Generating Resources:		
Depreciation and Amortization	43	305
Expenses Not Requiring Budgetary Resources	15	(15)
Total Components of Net Cost that Will Not Require or Generate Resources	58	290
Total Components of Net Cost of Operations That Will Not Require or		
Generate Resources in the Current Period	(20,899)	(18,170)
Net Cost of Operations	<u>\$ 28,211</u>	<u>\$ 35,497</u>

Distribution

The Administrator
Chief of Staff
Chief of Staff for Operations
Deputy Chief of Staff for Operations
Chief Financial Officer
Agency Follow-Up Coordinator
Assistant Administrator for Chemical Safety and Pollution Prevention
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Director, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Deputy Director, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Senior Advisor, FIFRA & PRIA Implementation, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Director, Pesticide Re-Evaluation Division, Office of pesticide Programs, Office of Chemical Safety and Pollution Prevention
Director, Registration Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Director, Antimicrobials Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Director, Information Technology and Resources Management Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
Controller, Office of the Controller, Office of the Chief Financial Officer
Deputy Controller, Office of the Controller, Office of the Chief Financial Officer
Director, Accounting and Cost Analysis Division, Office of the Chief Financial Officer
Director, Policy, Training, and Accountability Division, Office of the Chief Financial Officer
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Washington Finance Center, Office of the Chief Financial Officer
Audit Follow-Up Coordinator, Office of the Chief Financial Officer
Audit Follow-Up Coordinator, Office of Chemical Safety and Pollution Prevention
FIFRA & PRIA Audit Coordinator, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention

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From: OIG News
Sent: Mon 7/10/2017 1:30:53 PM
Subject: OIG Report: "Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund"
[_epaoig_20170710-17-F-0315_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund* (Report No. 17-F-0315). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

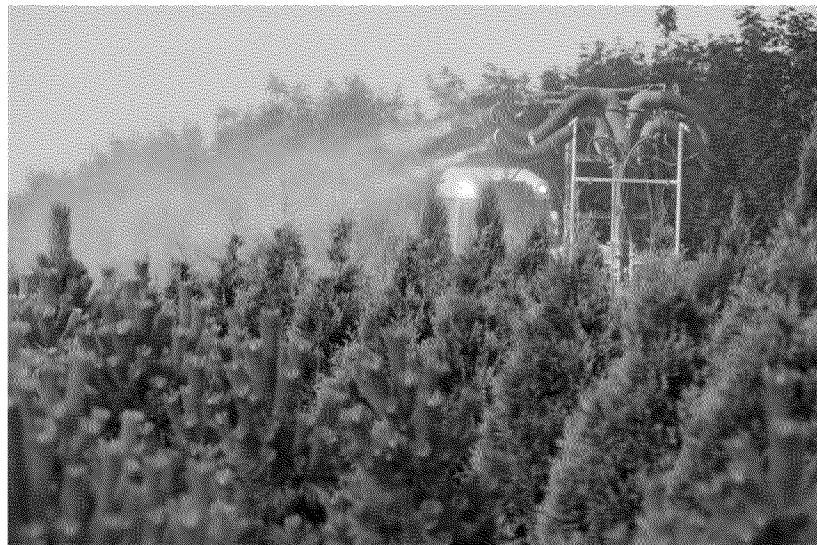


Financial Management

Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund

Report No. 17-F-0315

July 10, 2017



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Abbreviations

EPA	U.S. Environmental Protection Agency
FMFIA	Federal Managers' Financial Integrity Act
FY	Fiscal Year
OIG	Office of Inspector General
OMB	Office of Management and Budget
PRIA	Pesticide Registration Improvement Act
PRIA 3	Pesticide Registration Improvement Extension Act
U.S.C.	United States Code

Cover photo: Pesticides being applied. (EPA photo)

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At a Glance

Why We Did This Review

The Pesticide Registration Improvement Act (PRIA) requires that we perform an annual audit of the Pesticide Registration Fund (known as the PRIA Fund) financial statements.

To expedite the registration of certain pesticides, Congress authorized the U.S. Environmental Protection Agency (EPA) to assess and collect pesticide registration fees. The fees collected are deposited into the PRIA Fund. The agency is required to prepare financial statements that present financial information about the PRIA Fund. PRIA also requires the establishment of decision time review periods for pesticide registration actions, and requires the Office of Inspector General to perform an analysis of the agency's compliance with those review periods.

This report addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund

Disclaimer of Opinion

We rendered a disclaimer of opinion on the PRIA Fund financial statements for fiscal years (FYs) 2015 and 2014, meaning that we were unable to obtain sufficient evidence to determine if they were fairly presented and free of material misstatement.

Due to the material weakness in internal controls noted, the agency cannot provide reasonable assurance that financial data provided for the PRIA Fund accurately reflect the agency's financial activities and balances.

Internal Control Material Weakness Noted

We noted a material weakness in that the EPA cannot adequately support its FY 2015 PRIA Fund costs. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and amounts appropriated by Congress. In FY 2015, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. The EPA has taken corrective actions based on what we found during our prior PRIA Fund financial statements audit report; accordingly, we are making no additional recommendations on this issue. In October 2016, the agency implemented a new enhancement for transactions that will commence in FY 2017. However, this does not impact or correct the material weakness for the FY 2015 statements, nor the disclaimer of opinion.

Compliance With Applicable Laws and Regulations

The EPA did not meet the minimum requirement for funding worker protection activities in FY 2015. The EPA used approximately \$480,000 for worker protection activities in FY 2015. However, the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3) requires the EPA to use approximately 1/17 of the amount in the PRIA Fund, but not less than \$1 million, to enhance scientific and regulatory activities relating to worker protection per year. As a result, the EPA did not meet the statutory target set out by PRIA 3 of at least \$1 million.

We recommend that the Assistant Administrator for Chemical Safety and Pollution Prevention develop an adequate plan for funding worker protection activities that would require that the minimum target of \$1 million set out by PRIA 3 is met. The EPA agreed with our finding and recommendation. The recommendation has been resolved with corrective actions pending.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

July 10, 2017

MEMORANDUM

SUBJECT: Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund
Report No. 17-F-0315

FROM: Paul C. Curtis, Director
Financial Statement Audits

TO: Wendy Cleland-Hamnett, Acting Assistant Administrator
Office of Chemical Safety and Pollution Prevention

David Bloom, Acting Chief Financial Officer

This is our report on the audit of the U.S. Environmental Protection Agency's (EPA's) fiscal years 2015 and 2014 financial statements for the Pesticide Registration Fund, conducted by the EPA Office of Inspector General (OIG). The project number for this audit was OA-FY16-0079. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position.

The offices with primary jurisdiction over the issues discussed in this report are the Office of Pesticide Programs within the Office of Chemical Safety and Pollution Prevention, and the Office of the Controller within the Office of the Chief Financial Officer.

Action Required

In accordance with EPA Manual 2750, your office provided planned corrective actions in response to the OIG recommendation, and that recommendation is considered resolved. Therefore, you are not required to provide a written response to this final report. Please update the EPA's Management Audit Tracking System as you complete planned corrective actions. Should you choose to provide an additional response, that response will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Inspector General's Report on the Fiscal Years 2015 and 2014 Financial Statements for the Pesticide Registration Fund

The Administrator
U.S. Environmental Protection Agency

Report on the Financial Statements

We have audited the accompanying financial statements of the Pesticide Registration Fund (known as the PRIA Fund), which comprise the balance sheet as of September 30, 2015, and September 30, 2014, and the related statements of net cost, changes in net position, and statement of budgetary resources for the years then ended; and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America. This includes the design, implementation and maintenance of internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with generally accepted government auditing standards; the standards applicable to financial statements contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and Office of Management and Budget (OMB) Bulletin 15-02, *Audit Requirements for Federal Financial Statements*. Because of the matter described in the Basis for Disclaimer of Opinion section, however, we were not able to obtain sufficient, appropriate audit evidence to provide a basis for an audit opinion.

Basis for Disclaimer of Opinion

The U.S. Environmental Protection Agency (EPA) cannot adequately support payroll liabilities on the PRIA Fund's Balance Sheet as of September 30, 2015 and 2014; and Income/Expense from other appropriations on the statements of the PRIA Fund's Net Costs and Changes in Net Position for the years ended September 30, 2015 and 2014.

In fiscal years (FY) 2015 and 2014, the EPA allocated its pesticides appropriated funding to pay for payroll costs. By paying significant payroll amounts from appropriations versus from fees collected by the PRIA Fund, the EPA lost the audit trail to properly support how much of the PRIA payroll expenses were paid for by appropriations. We were unable to satisfy ourselves by other audit procedures concerning the adequacy of the amounts allocated, consistency of application, or reasonableness of the payroll expenses between the PRIA Fund and the EPA's other pesticide programs, including payroll accruals, as of and for the years ended September 30, 2015 and 2014. As a result, we were unable to determine whether any adjustments were necessary relating to payroll and related accounts, income/expense from other appropriations, and payroll liabilities.

Disclaimer of Opinion

Because of the significance of the matter described in the Basis for Disclaimer of Opinion section above, we have not been able to obtain sufficient, appropriate audit evidence to provide a basis for an audit opinion. Accordingly, we do not express an opinion on the PRIA Fund's financial statements, and the related accompanying notes as of and for the years ended September 30, 2015 and 2014.

Report on Internal Control Over Financial Reporting

Opinion on Internal Control. In planning and performing our audit, we considered the EPA's internal control over financial reporting by obtaining an understanding of the agency's internal control, determining whether internal control had been placed in operation, assessing control risk, and performing tests of controls. We did this as a basis for designing our auditing procedures for the purpose of expressing an opinion on the financial statements and to comply with OMB audit guidance, not to express an opinion on internal control. Accordingly, we do not express an opinion on internal control over financial reporting nor on management's assertion on internal control included in Management's Discussion and Analysis. We limited our internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin No. 15-02, *Audit Requirements for Federal Financial Statements*. We did not test all internal control relevant to operating objectives as broadly defined by the Federal Managers' Financial Integrity Act of 1982 (FMFIA).

Material Weakness and Significant Deficiencies. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be significant deficiencies. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will

not be prevented, or detected and corrected in a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Because of inherent limitations in internal control, misstatements, losses or noncompliance may nevertheless occur and not be detected. We noted a certain matter discussed below and detailed in Attachment 1 and Prior Audit Coverage, involving the internal control and its operation that we consider to be material.

Material Weakness

The EPA cannot adequately support its FY 2015 PRIA Fund costs. OMB policy states that basic financial statements include a Balance Sheet and Statement of Net Costs, and that the statement of net costs should include the net costs of operations. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and from amounts appropriated by Congress. In FY 2015, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. The EPA developed an allocation methodology to distribute costs funded by EPA appropriations back to the PRIA Fund, but the methodology is based upon inconsistent charging of payroll costs between the PRIA Fund and EPA appropriations.

Because the EPA cannot adequately support total FY 2015 PRIA Fund costs and liabilities, and because we were unable to determine by other audit procedures the adequacy of amounts allocated, consistency of application, or reasonableness of net costs and liabilities, we disclaimed an opinion on the PRIA Fund's FY 2015 financial statements. We consider the EPA's inability to support the PRIA Fund payroll costs a material weakness.

Comparison of EPA's FMFIA Report With Our Evaluation of Internal Controls

OMB Bulletin No. 15-02, *Audit Requirements for Federal Financial Statements*, requires the OIG to compare material weaknesses disclosed during the audit with those material weaknesses reported in the agency's FMFIA report that relate to the financial statements, and identify material weaknesses disclosed by the audit that were not reported in the agency's FMFIA report. The agency's FMFIA report is prepared and submitted at the consolidated level, of which the PRIA Fund is a component.

The agency did not report any material weaknesses at the consolidated level for FY 2015 that would impact the PRIA Fund.

Tests of Compliance With Laws, Regulations, Contracts and Grant Agreements

The EPA management is responsible for complying with laws, regulations, contracts and grant agreements applicable to the agency. As part of obtaining a reasonable assurance as to whether the agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, including those governing the use of budgetary authority, regulations, contracts and grant agreements that have a direct effect on the determination of material amounts and disclosures in PRIA Fund financial statements. The objective of our audit, including our tests of compliance with provisions of applicable laws, regulations, contracts, and grant agreements, was not to provide an opinion on compliance with such provisions. Accordingly, we do not express such an opinion. We did not identify any instances of noncompliance that would result in a material misstatement to the audited financial statements. We did notice one noncompliance with the use of funds for worker protection activities.

The EPA did not meet the minimum requirement for funding worker protection activities in FY 2015. The EPA used approximately \$480,000 for worker protection activities in FY 2015. However, the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3) requires the EPA to use approximately 1/17 of the amount in the PRIA Fund, but not less than \$1 million, to enhance scientific and regulatory activities relating to worker protection per year. As a result, the EPA did not meet the statutory target set out by PRIA 3 of at least \$1 million.

Management's Discussion and Analysis Section of the Financial Statements

Our audit work related to the information presented in the Management's Discussion and Analysis of the pesticide program included comparing the overview information with information in the EPA's principal financial statements for consistency. We did not identify any material inconsistencies between the information presented in the two documents.

Prior Audit Coverage

During our previous audit of the PRIA financial statements—*Fiscal Years 2014 and 2013 Financial Statements for the Pesticide Registration Fund* (Report No. 16-F-0323), issued September 22, 2016—we reported a material weakness regarding inadequate support of costs. Specifically, the EPA could not adequately

support \$28 million of its FY 2014 PRIA Fund costs. The EPA's Office of Pesticide Programs receives its funding both from fees paid by pesticide manufacturers and from amounts appropriated by Congress. In FY 2014, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs.

The agency has taken action to correct this weakness. As noted in the prior report, the agency agreed with our finding and believes that the timekeeping system's cost allocation enhancement will allow for the creation of an audit trail to capture costs incurred by the PRIA Fund and other appropriations that support PRIA-related activities. The agency implemented a new enhancement in October 2016. The enhancement is for transactions commencing in FY 2017, and does not impact or correct the material weakness, and the reason for the disclaimer of opinion for the FY 2015 statements.

Agency Comments and OIG Evaluation

The agency agreed with our finding and recommendation. We concur with the planned corrective action. The agency's full written response is in Appendix B.



Paul C. Curtis
Certified Public Accountant
Director, Financial Statement Audits
Office of Inspector General
U.S. Environmental Protection Agency
July 6, 2017

Material Weakness

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1 – EPA Cannot Adequately Support PRIA Fund Costs

The EPA cannot adequately support its FY 2015 PRIA Fund costs. OMB policy states that basic financial statements include a Balance Sheet and Statement of Net Costs, and that the statement of net costs should include the net costs of operations. The EPA's Office of Pesticide Programs receives its funding from both fees paid by pesticide manufacturers and from amounts appropriated by Congress. In FY 2015, the EPA allocated its pesticide funding to use appropriated amounts, which would expire, and retained funding received from fees. Therefore, significant payroll amounts paid from appropriations were not charged directly to the PRIA Fund or other pesticide programs. This resulted in the loss of the audit trail for reporting separate costs and liabilities for the PRIA Fund and other pesticide programs. The EPA developed an allocation methodology to distribute costs funded by EPA appropriations back to PRIA, but the methodology is based upon inconsistent charging of payroll costs between the PRIA Fund and EPA appropriations. Because the EPA cannot adequately support total FY 2015 PRIA Fund costs and liabilities, and because we were unable to determine by other audit procedures the adequacy of amounts allocated, consistency of application, or reasonableness of net costs and liabilities, we disclaimed an opinion on PRIA's FY 2015 financial statements. We consider the EPA's inability to support the PRIA Fund payroll costs a material weakness.

PRIA requires that a set of financial statements be prepared to provide an annual accounting of expenditures and collections for the PRIA program. OMB Circular A-136 requires that these statements include a Statement of Net Costs, under which net costs of operations are reported. The PRIA Fund's costs of operations are supported by several sources: maintenance fees, registration and reregistration fees, and EPA appropriations.

In FY 2015, the EPA allocated its pesticide funding to use appropriated amounts that would expire, and to retain funding received from fees. Significant payroll amounts were paid from appropriations and not charged directly to PRIA. This resulted in the loss of the audit trail for reporting separate PRIA Fund costs. The EPA adopted an allocation methodology to determine the amount of appropriated dollars used to support the PRIA Fund and the EPA's other pesticide programs. However, this methodology is based upon inconsistent and arbitrary charging of the Office of Pesticide Programs' payroll costs between the PRIA Fund and the EPA's other pesticide programs. The inconsistent and arbitrary charging makes the allocation base unreliable, and the methodology cannot support the PRIA Fund operations costs. We consider the inability of the EPA to support FY 2015 PRIA Fund costs to be a material weakness.

We did not determine overall payroll costs for the EPA's pesticide programs to be inaccurate. Our findings are limited to the specific allocation of appropriated amounts to cover payroll costs of the EPA's pesticide programs and accounting for those costs at the program level. At the program level (specifically, for the PRIA Funds), the agency could not provide adequate support, and we could not audit the payroll costs for those funds paid for by appropriated amounts to opine on the adequacy of such amounts.

We previously reported on this issue in the FY 2014 PRIA Fund Financial Statements audit report, and the agency agreed with this finding. In FY 2015, the EPA indicated it made modifications to its accounting system, which purportedly will address this material weakness. The agency believed that the timekeeping system's cost allocation enhancement, which went live in October 2016, will allow

for the creation of an audit trail to capture costs incurred by the PRIA Fund and by other appropriations that support PRIA-related activities.

We make no recommendations regarding this finding.

Compliance With Laws and Regulations

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2 – EPA Did Not Comply With PRIA for Worker Protection Activities

The EPA did not meet the minimum requirement for funding worker protection activities in FY 2015. The EPA used approximately \$480,000 for worker protection activities in FY 2015. However, the Pesticide Registration Improvement Extension Act of 2012 (PRIA 3) requires the EPA to use approximately 1/17 of the amount in the PRIA Fund, but not less than \$1 million, to enhance scientific and regulatory activities relating to worker protection per year. As a result, the EPA did not meet the statutory target set out by PRIA 3 of at least \$1 million.

PRIA 3 states: “For each of fiscal years 2013 through 2017, the Administrator shall use approximately 1/17 of the amount in the Fund (but not less than \$1 million) to enhance scientific and regulatory activities relating to worker protection.”¹ The approximately \$480,000 the EPA used for this purpose in FY 2015 was \$520,000 less than the established minimum target of \$1 million. The agency indicated this occurred because a grantee withdrew from an EPA-awarded grant related to the PRIA Fund.

Recommendation

We recommend the Assistant Administrator for Chemical Safety and Pollution Prevention:

1. Develop an adequate plan for funding worker protection activities that would require that the minimum target of \$1 million set out by the Pesticide Registration Improvement Extension Act of 2012 is met.

Agency Comments and OIG Evaluation

The agency agreed with our finding and recommendation, and we agree with the planned corrective action.

¹ Codified at 7 U.S.C. § 136w-8(c)(3)(B)(i).

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	10	Develop an adequate plan for funding worker protection activities that would require that the minimum target of \$1 million set out by the Pesticide Registration Improvement Extension Act of 2012 is met.	R	Assistant Administrator for Chemical Safety and Pollution Prevention	9/30/17	

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

**Fiscal Years 2015 and 2014 Pesticide Registration Fund
Financial Statements**



*Produced by the U.S. Environmental Protection Agency
Office of the Chief Financial Officer
Office of Controller*

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Management's Discussion and Analysis

EPA's FY 2015 Annual PRIA Financial Statements

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996, the EPA's Pesticide Program registers new pesticides and re-evaluates existing pesticides to ensure that they can be used safely and that levels of residue in food and animal feed are safe (there is a reasonable certainty of no harm). The agency must also conclude that, when used in accordance with labeling and common practices, the product will not generally cause unreasonable adverse effects on the environment.

The Pesticide Registration Improvement Act (PRIA) of 2003 established the Pesticide Registration Fund. PRIA authorizes the collection of Registration service fees, which are deposited into the Registration Fund and made available for obligation to the extent provided in appropriation acts, and are available without fiscal year limitation.

Pesticide Registration

Under FIFRA and FFDCA pesticides must be registered by the EPA. The passage of PRIA introduced deadlines for the agency to complete certain registration actions. EPA expedites the registration of reduced-risk pesticide uses, which generally pose lower risks to people and the environment. Accelerated pesticide reviews provide an incentive for industry to develop and register lower risk pesticides, and the availability of these reduced-risk pesticides provides alternatives to older, potentially more harmful products currently on the market.

PRIA prescribed the amount of the registration service fee and the corresponding decision review time for various categories of registration action. The goal is to create a more predictable evaluation process for affected pesticide registrants and couple the collection of individual fees with specific decision-making periods. The legislation also promotes shorter decision review periods for reduced-risk pesticide applications. PRIA 1, effective on March 23, 2004, authorized collection of registration fees through FY 2008. The Pesticide Registration Improvement Renewal Act (PRIA 2), effective on October 1, 2007, authorized collection of registration fees through FY 2012. The Pesticide Registration Improvement Extension Act (PRIA 3) was effective on October 1, 2012, authorized collection of registration fees through FY 2017.

For a pending or a new application covered by PRIA to be deemed complete and subject to the decision review periods, a registrant is required to pay the applicable fee or receive a waiver from the fee. For most applications, the decision review period starts 21 days after submission of the application, provided that the fee has been paid, fee waiver granted or in the case of a 75% or 50% fee waiver under PRIA 3, the waiver has been granted and the remaining fee has been paid. The legislation provides fee waivers for certain categories of small businesses and minor uses¹.

¹ Minor use pesticides are those that produce relatively little revenue for their manufacturers, for a variety of reasons. They may be registered for a seldom seen pest, or for a crop that is not grown by a large number of producers. However, minor crops include some high revenue fruit, vegetable, and ornamental crops.

Exemption from the requirement to pay a registration service fee is continued under PRIA 3 for applications solely associated with IR-4 petitions². Applications from federal and state agencies are also exempt from registration service fees. If the registrant requests a waiver or reduction of the fee, the decision review period will begin when the agency grants such request or in the case of small business fee waivers, no more than 60 days after receipt of the waiver application. If the agency determines that a fee is required and the waiver is not granted, the decision review period starts after the fee is collected.

Applications received prior to October 1, 2007, were covered by PRIA 1. Applications received up to September 30, 2012, were covered by PRIA 2³ and applications received on or after October 1, 2012, are covered by PRIA 3. PRIA 3 contains the same audit provision as PRIA 2. PRIA 3 includes new authority to reject an application if it fails a preliminary technical screen. PRIA 3 also increases the fee categories or types of applications covered by PRIA from 140 to 189 and maintains set-asides to support worker protection and applicator training activities as well as IPM grants at levels comparable to PRIA 2.

Enforcement and Compliance Assurance Program Description

The Pesticide Enforcement and Compliance Assurance Program focuses on pesticide product and user compliance. These include problems relating to pesticide worker safety, certification and training of applicators, ineffective antimicrobial products, food safety, adverse effects, risks of pesticides to endangered species, pesticide containers and containment facilities, and e-commerce and misuse. The enforcement and compliance assurance program provides compliance assistance to the regulated community through its National Agriculture Compliance Assistance Center, seminars, guidance documents, brochures, and other forms of communication to ensure knowledge of and compliance with environmental laws.

EPA's grant support to state and tribal pesticide programs emphasizes its commitment to maintaining a strong compliance and enforcement presence. Agency FIFRA Cooperative Agreement priorities for FY 2015 – FY 2017 include the enforcement of worker protection standards and pesticide applicator certification; compliance monitoring and enforcement activities related to the pesticide container and containment rules, the revised soil fumigant labels, compliance of supplemental distributor products, contact manufacturing and program performance reporting. Core program activities include inspections of producing establishments; dealers/distributors/retailers; e-commerce; imports and exports, and pesticide misuse.

² The IR-4 (Interregional Research Project No.4) program is involved in making sure that pesticides are registered for use on minor crops. IR-4 helps by conducting research on minor use pesticides, pesticides that would not otherwise be profitable to manufacture.

³Out of approximately 7,889 actions completed under PRIA 2, more than 99.0% were completed on or before the PRIA 2 due date.

Additionally, through the Cooperative Agreements we support inspector training and training for state/tribal senior managers, scientists, and supervisors.

Highlights and Accomplishments

Registration Financial Perspective

During FY 2015, the Agency's obligations charged against the PRIA Fund for the cost of registration were \$15.655 million and 69.2 work-years. Of this amount, OPP obligated \$9.8 million in PC&B.

Appropriated funds are used in addition to Registration funds. In FY 2015, the Enacted Operating Plan included approximately \$34.2 million in appropriated funds for registration activities.

The Fund has two types of receipts: fee collections and interest earned on investments. Of the \$17.1 million in FY 2015 net receipts, more than 99.9% were fee collections.

Registration Program Performance Measures

The following measures support the program's strategic goals ensuring the safety of chemicals and Pollution Prevention.

Measure 1: Number of new active ingredients registered.

Results: In FY 2015, EPA registered 17 new active ingredients, including 9 biopesticides, 1 antimicrobial, and 7 conventional pesticides. In addition, EPA approved an import tolerance for 1 new active ingredient. This measure includes both reduced-risk and non-reduced-risk pesticides.

Measure 2: Progress in Registering Reduced-risk Pesticides.

Results: In FY 2015, EPA registered 11 reduced-risk new active ingredients, including 2 conventional pesticides and 9 biopesticides. Biological pesticides are derived from such natural materials as animals, plants, bacteria, and certain minerals. They are usually less toxic and are typically considered safer pesticides than the traditional conventional chemicals; therefore, the 9 biopesticide new active ingredients are counted as reduced-risk pesticides. Conventional "reduced risk" pesticides have one or more of the following advantages over currently registered pesticides: low impact on human health, low toxicity to non-target organisms, low potential for groundwater contamination, lower use rates, low pest resistance potential, and compatibility with integrated pest management strategies.

Measure 3: Number of New Food Uses Registered.

Results: EPA registered 113 new food uses for previously registered active ingredients. Of these new uses, 108 food uses were for conventional pesticides, 1 was for an antimicrobial pesticide, and 4 were for biopesticides.

Measure 4: Progress in Registering Reduced-risk New Uses.

Results: Included in the new food uses registered is a reduced-risk use associated with 1 conventional pesticide (a mosquito adulticide for use across all crops), as well as the 4 biopesticide new uses.

**PRINCIPAL
FINANCIAL STATEMENTS**

EPA's FY 2015 Annual PRIA Financial Statements

Principal Financial Statements

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United States Environmental Protection Agency
PRIA
Balance Sheet
As of September 30, 2015 and 2014
(Dollars in Thousands)

	<u>FY 2015</u>	<u>FY 2014</u>
ASSETS		
Intragovernmental:		
Fund Balance With Treasury (Note 2)	\$ 20,658	18,667
Other (Note 3)	<u>6</u>	<u>-</u>
Total Intragovernmental	20,664	18,667
Accounts Receivable, Net	15	-
Property, Plant & Equipment, Net (Note 4)	<u>1,900</u>	<u>2,205</u>
Total Assets	<u>22,579</u>	<u>20,872</u>
 LIABILITIES		
Intragovernmental:		
Accounts Payable and Accrued Liabilities	25	54
Other (Note 5)	<u>204</u>	<u>135</u>
Total Intragovernmental	229	189
Accounts Payable and Accrued Liabilities	555	645
Payroll and Benefits Payable (Note 6)	1,673	850
Other (Note 5)	<u>19,104</u>	<u>17,307</u>
Total Liabilities	<u>21,561</u>	<u>18,991</u>
 NET POSITION		
Cumulative Results of Operations - Funds from Dedicated Collections	1,018	1,881
Total Net Position	1,018	1,881
 Total Liabilities and Net Position	<u>\$ 22,579</u>	<u>20,872</u>

The accompanying footnotes are an integral part of these financial statements

**United States Environmental Protection Agency
PRIA
Statement of Net Cost
For the Fiscal Years Ending September 30, 2015 and 2014
(Dollars in Thousands)**

		<u>FY 2015</u>	<u>FY 2014</u>
COSTS			
Gross Costs (Note 9)	\$	16,136	16,540
Expenses from Other Appropriations (Note 7)		<u>38,346</u>	<u>27,729</u>
Total Costs		54,482	44,269
Less:			
Earned Revenue (Note 8 and 9)		<u>18,985</u>	<u>18,754</u>
NET COST OF OPERATIONS	\$	<u>35,497</u>	<u>25,515</u>

The accompanying footnotes are an integral part of these financial statements

United States Environmental Protection Agency
PRIA
Statement of Changes in Net Position
For the Fiscal Years Ending September 30, 2015 and 2014
(Dollars in Thousands)

	<u>FY 2015</u>	<u>FY 2014</u>
Cumulative Results of Operations:		
Net Position - Beginning of Period	\$ <u>1,881</u>	<u>1,402</u>
Beginning Balances, as Adjusted	1,881	1,402
Budgetary Financing Sources:		
Nonexchange Revenue - Securities Investment	1	1
Nonexchange Revenue - Other	(4,067)	(1,926)
Transfers In/Out	(164)	162
Income from Other Appropriations (Note 7)	<u>38,346</u>	<u>27,729</u>
Total Budgetary Financing Sources	34,116	25,967
Other Financing Sources (Non-Exchange)		
Imputed Financing Sources	<u>518</u>	<u>28</u>
Total Other Financing Sources	518	28
Net Cost of Operations	(35,497)	(25,515)
Net Change	(863)	479
Cumulative Results of Operations	\$ <u>1,018</u>	<u>1,881</u>

The accompanying footnotes are an integral part of these financial statements

United States Environmental Protection Agency
PRIA
Statement of Budgetary Resources
For the Fiscal Years Ending September 30, 2015 and 2014
(Dollars in Thousands)

	FY 2015	FY 2014
BUDGETARY RESOURCES		
Unobligated balance, brought forward, October 1:	\$ 12,510	11,719
Unobligated Balance Brought Forward, October 1, as adjusted	12,510	11,719
Recoveries of prior year unpaid obligations	227	15
Unobligated balance from prior year budget authority, net	12,737	11,734
Appropriations (discretionary and mandatory)	16,081	16,817
Spending Authority from offsetting collection (discretionary and mandatory)	(14)	-
Total Budgetary Resources	28,804	28,551
 STATUS OF BUDGETARY RESOURCES		
Obligations Incurred	15,264	16,041
Unobligated Balance, end of year:		
Apportioned	13,540	273
Unapportioned	-	12,237
Total Unobligated balance, end of period	13,540	12,510
Total Status of Budgetary Resources	28,804	28,551
 CHANGE IN OBLIGATED BALANCE		
Unpaid Obligations:		
Unpaid obligations, brought forward, October 1 (gross)	5,338	5,723
Obligated balance, start of year (net), before adjustments	5,338	5,723
Obligated balance, start of year (net), as adjusted	5,338	5,723
Obligations incurred, net	15,264	16,041
Outlays (gross)	(14,090)	(16,411)
Recoveries of prior year unpaid obligations	(227)	(15)
Obligated balance, end of period		
Unpaid obligations, end of year (gross)	6,285	5,338
Obligated balance, end of period (net)	6,285	5,338
 BUDGET AUTHORITY AND OUTLAYS, NET:		
Budget authority, gross (discretionary and mandatory)	16,067	16,817
Actual offsetting collections (discretionary and mandatory)	14	-
Budget Authority, net (discretionary and mandatory)	16,081	16,817
 Outlays, gross (discretionary and mandatory)	14,090	16,411
Actual offsetting collections (discretionary and mandatory)	14	-
Outlays, net (discretionary and mandatory)	14,104	16,411
Distributed offsetting receipts	(16,081)	(16,674)
Agency outlays, net (discretionary and mandatory)	\$ (1,977)	(263)

The accompanying footnotes are an integral part of these financial statements

Environmental Protection Agency
PRIA
Notes to Financial Statements
For the Fiscal Years Ending September 30, 2015 and 2014
(Dollars in Thousands)

Note 1. Summary of Significant Accounting Policies

A. Reporting Entity

The U.S. Environmental Protection Agency (EPA or Agency) was created in 1970 by executive reorganization from various components of other Federal agencies in order to better marshal and coordinate federal pollution control efforts. The Agency is generally organized around the media and substances it regulates -- air, water, land, hazardous waste, pesticides and toxic substances.

The Pesticide Registration Fund (PRIA) is authorized under the Pesticide Registration Improvement Act of 2003 (which amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)), and became effective on March 23, 2004. This Act authorizes the EPA to assess and collect pesticide registration service fees on applications submitted to register pesticides covered by this Act, as well as assess and collect fees to register new active ingredients not listed in the Registration Division 2003 Work Plan of the Office of Pesticide Programs. The Pesticide Registration Improvement Renewal Act (commonly referred to as PRIA II) extended the authority to collect pesticide registration service fees through FY 2012. PRIA II became effective October 1, 2007. PRIA II was reauthorized with the passage of the Pesticide Registration Improvement Extension Act (referred to as PRIA III) on September 28, 2012 and became effective 2 days later on October 1, 2012. The PRIA Fund is accounted for under Treasury symbol number 68X5374.

The PRIA fund may charge some administrative costs directly to the fund and charge the remainder of the administrative costs to Agency-wide appropriations. Costs funded by Agency-wide appropriations for FYs 2015 and 2014 were \$38,346 thousand and \$27,729 thousand, respectively. This amount was included as Income from Other Appropriations on the Statement of Changes in Net Position and as Expenses from Other Appropriations on the Statement of Net Cost for FYs 2015 and 2014. Costs for FY 2015 reflect a change in accounting principles to full cost, as explained in Paragraph N below.

B. Basis of Presentation

These financial statements have been prepared to report the financial position and results of operations of the EPA for the Pesticide Registration Fund (PRIA) as required by the Chief Financial Officers Act of 1990 and the Pesticide Registration Improvement Act (PRIA) of 2003. In the prior years, pesticide registration was included in the FIFRA financial statements. The

reports have been prepared from the books and records of the EPA in accordance with Office of Management and Budget (OMB) Circular A-136 *Financial Reporting Requirements*, and the EPA's accounting policies which are summarized in this note. These statements are therefore different from the financial reports also prepared by the EPA pursuant to OMB directives that are used to monitor and control the EPA's use of budgetary resources. The balances in these reports have been updated from the EPA consolidated financial statements to reflect the use of FY 2015 cost factors for calculating imputed costs for Federal civilian benefits programs. These updates impact the Balance Sheet, Statement of Net Cost, and Statement of Changes in Net Position.

C. Budgets and Budgetary Accounting

Funding for PRIA is provided by fees collected from industry to offset costs incurred by EPA in carrying out these programs. Each year the EPA submits an apportionment request to OMB based on the anticipated collections of industry fees.

D. Basis of Accounting

Generally Accepted Accounting Principles (GAAP) for Federal entities is the standard prescribed by the Federal Accounting Standards Advisory Board (FASAB), which is the official standard setting body for the federal government. The financial statements are prepared in accordance with GAAP for federal entities.

Transactions are recorded on an accrual accounting basis and a budgetary basis. Under the accrual method, revenues are recognized when earned and expenses are recognized when a liability is incurred, without regard to receipt or payment of cash. Budgetary accounting facilitates compliance with legal constraints and controls over the use of Federal funds. All interfund balances and transactions have been eliminated.

E. Revenues and Other Financing Sources

For FYs 2015 and 2014, PRIA received funding from fees collected from registrants requesting pesticide registrations. For FYs 2015 and 2014, revenues were recognized from fee collections to the extent that expenses are incurred during the fiscal year.

F. Funds with the Treasury

The PRIA fund deposits receipts and processes disbursements through its operating account maintained at the U.S. Department of the Treasury.

G. Investments in U. S. Government Securities

Investments in U. S. government securities are maintained by Treasury and are reported at amortized cost net of unamortized discounts. Discounts are amortized over the term of the

investments and reported as interest income. PRIA holds the investments to maturity, unless needed to finance operations of the fund. No provision is made for unrealized gains or losses on these securities because, in the majority of cases, they are held to maturity.

H. General Property, Plant and Equipment

Purchases of the EPA-held personal equipment are capitalized if the equipment is valued at \$25 thousand or more and has an estimated useful life of at least two years. Depreciation is taken on a basic straight-line method over the specific asset's useful life, ranging from two to 15 years. The EPA shows property, plant and equipment at net of depreciation on its audited financial statements.

All funds (except for the Working Capital Fund) capitalize software if those investments are considered Capital Planning and Investment Control (CPIC) or CPIC Lite systems with the provisions of SFFAS No. 10, "Accounting for Internal Use Software." Once software enters the production life cycle phase, it is depreciated using the straight-line method over the specific asset's useful life ranging from two to 5 years.

I. Liabilities

Liabilities represent the amount of monies or other resources that are likely to be paid by the Agency as the result of an Agency transaction or event that has already occurred and can be reasonably estimated. However, no liability can be paid by the Agency without an appropriation or other collections. Liabilities for which an appropriation has not been enacted are classified as unfunded liabilities and there is no certainty that the appropriations will be enacted. For PRIA, liabilities are liquidated from fee receipts, since PRIA receives no appropriation. Liabilities of the Agency arising from anything other than contracts can be abrogated by the Government acting in its sovereign capacity.

J. Accrued Unfunded Annual Leave

Annual, sick and other leave is expensed as taken during the fiscal year. Sick leave earned but not taken is not accrued as a liability. Annual leave earned but not taken as of the end of the fiscal year is accrued as an unfunded liability. Accrued unfunded annual leave is included in the Balance Sheet as a component of "Payroll and Benefits Payable."

K. Retirement Plan

There are two primary retirement systems for Federal employees. Employees hired prior to January 1, 1987, may participate in the Civil Service Retirement System (CSRS). On January 1, 1984, the Federal Employees Retirement System (FERS) went into effect pursuant to Public Law 99-335. Most employees hired after December 31, 1983, are automatically covered by FERS and Social Security. Employees hired prior to January 1, 1984, elected to either join FERS and

Social Security or remain in CSRS. A primary feature of FERS is that it offers a savings plan to which the Agency automatically contributes one percent of pay and matches any employee contributions up to an additional four percent of pay. The Agency also contributes the employer's matching share for Social Security.

With the issuance of SFFAS No. 5, "Accounting for Liabilities of the Federal Government," accounting and reporting standards were established for liabilities relating to the federal employee benefit programs (Retirement, Health Benefits, and Life Insurance). SFFAS No. 5 requires that the employing agencies recognize the cost of pensions and other retirement benefits during their employees' active years of service. SFFAS No. 5 requires that the Office of Personnel Management (OPM), as administrator of the CSRS and FERS, the Federal Employees Health Benefits Program, and the Federal Employees Group Life Insurance Program, provide federal agencies with the actuarial cost factors to compute the liability for each program.

L. Offsetting Receipts

Beginning in FY 2007 OMB Circular A-136, *Financial Reporting Requirements*, requires that the amount of distributed offsetting receipts reported in the Statement of Budgetary Resources (SBR) should equal the amount recorded as offsetting receipts by the Department of the Treasury (Treasury). Pesticide Registration Fees collected under PRIA are considered to be offsetting receipts by Treasury.

M. Use of Estimates

The preparation of financial statements requires management to make certain estimates and assumptions that affect the reported amounts of assets and liabilities and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

N. Prior Period Adjustments and Restatements

Prior period adjustments, if any, are made in accordance with SFFAS No. 21, "Reporting Corrections of Errors and Changes in Accounting Principles." Specifically, prior period adjustments will only be made for material prior period errors to: (1) the current period financial statements, and (2) the prior period financial statements presented for comparison. Adjustments related to changes in accounting principles will only be made to the current period financial statements, but not to prior period financial statements presented for comparison.

In fiscal year 2014, EPA elected to change an accounting principle and use the full cost of expenses from other appropriations in accordance with SFFAS No. 4, "Managerial Costs Accounting Standards and Concepts". See Note 7 for additional information.

Note 2. Fund Balance with Treasury

	<u>FY 2015</u>	<u>FY 2014</u>
Revolving Funds: Entity Assets	<u>\$ 20,658</u>	<u>18,667</u>

Note 3. Other Assets-Advances to Working Capital Fund

PRIA advances funds to the EPA's Working Capital Fund to pay for computer, postage, and other administrative support services. As of September 30, 2015 and 2014, funds advanced that will be applied to future costs as incurred were \$6 thousand and \$0 respectively.

Note 4. General Property, Plant and Equipment

General property, plant and equipment consists of the EPA-Held personal property, software, and software in development.

As of September 30, 2015 and 2014, General Property, Plant and Equipment consist of the following:

	<u>FY 2015</u>			<u>FY 2014</u>		
	Acquisition Value	Accumulated Depreciation	Net Book Value	Acquisition Value	Accumulated Depreciation	Net Book Value
EPA-Held Equipment	\$ 173	(167)	6	411	(372)	39
Software	6,019	(4,125)	1,894	6,019	(3,853)	2,166
Total	<u>\$ 6,192</u>	<u>(4,292)</u>	<u>1,900</u>	<u>6,430</u>	<u>(4,225)</u>	<u>2,205</u>

Note 5. Other Liabilities

For FYs 2015 and 2014, Payroll and Benefits Payable, non-federal, are presented on a separate line of the Balance Sheet and in a separate footnote (see Note 6).

	<u>FY 2015</u>	<u>FY 2014</u>
Other Intragovernmental Liabilities - Covered by Budgetary Resources		
Employer Contributions - Payroll	<u>\$ 204</u>	<u>135</u>
Total	<u>204</u>	<u>135</u>
Other Non-Federal Liabilities - Covered by Budgetary Resources		
Advances from Non-Federal Entities	<u>19,104</u>	<u>17,307</u>
Total	<u>\$ 19,104</u>	<u>17,307</u>

Note 6. Payroll and Benefits Payable, Non-Federal:

	<u>FY 2015</u>	<u>FY 2014</u>
Covered by Budgetary Resources		
Accrued Payroll Payable to Employees	\$ 820	663
Withholdings Payable	191	61
Thrift Savings Plan Benefits Payable	41	30
Total	<u>1,052</u>	<u>754</u>
Not Covered by Budgetary Resources		
Unfunded Annual Leave	621	96
Total	<u>\$ 621</u>	<u>96</u>

At various periods throughout FY 2015 and FY 2014 employees with their associated payroll costs were transferred from PRIA to the Environmental Programs and Management (EPM) appropriation. (See graph in Note 7 below showing trend of hours charged per month to the PRIA fund for FYs 2015 and 2014.) These employees were transferred in order to keep PRIA's obligations and disbursements within budgetary limits.

This process has led to variations between the year-end liabilities of FYs 2015 and 2014. The liabilities covered by budgetary resources (both intragovernmental and non-Federal) represent unpaid payroll and benefits at year-end. For FY 2015 Pay Period 26, eighty six were charging a portion of their salary and benefits to PRIA. As of September 30, 2015, the liabilities were \$204 thousand and \$1,052 thousand for employer contributions and accrued funded payroll and benefits as compared to FY 2014's balances of \$135 thousand and \$754 thousand, respectively.

In contrast, the unfunded annual leave liability is a longer term liability than the funded liabilities. At various periods throughout FY 2015 and FY 2014, approximately 109 and 207 employees, respectively, in total have been under PRIA's accountability. As of September 30, 2015 and 2014 liability balances for unfunded annual leave were accrued to cover these employees for a total of \$621 thousand and \$96 thousand, respectively.

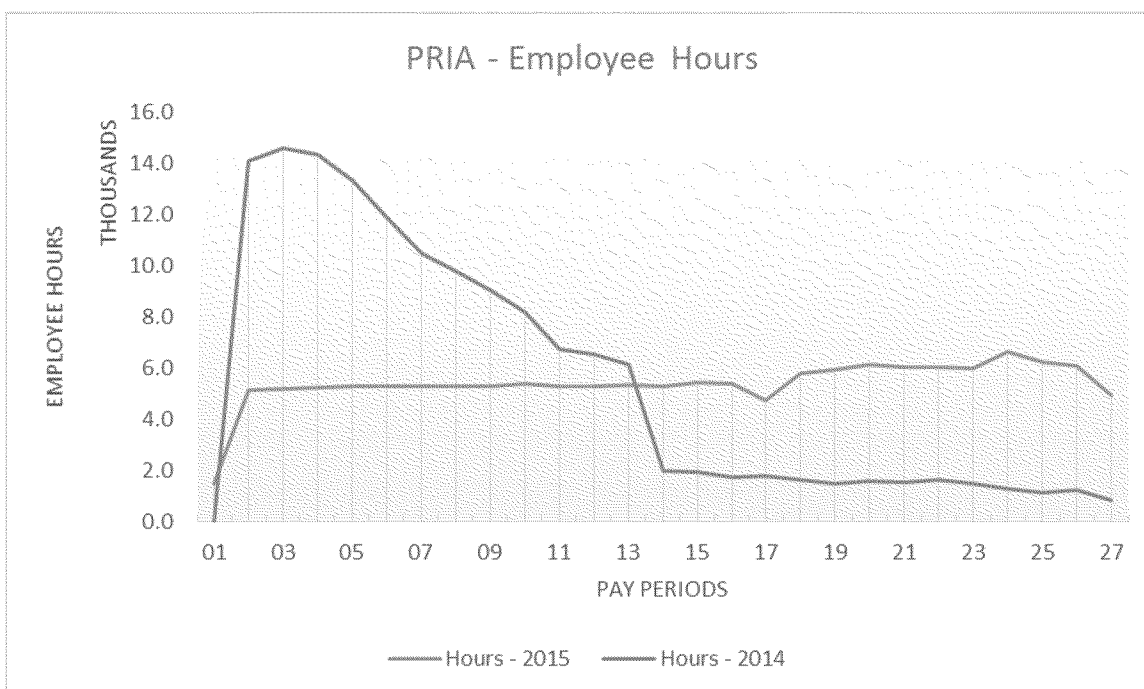
Note 7. Income and Expenses from Other Appropriations:

The Statement of Net Cost reports program costs that include the full costs of the program outputs and consist of the direct costs and all other costs that can be directly traced, assigned on a cause and effect basis, or reasonably allocated to program outputs.

During FYs 2015 and 2014, the EPA had two appropriations which funded a variety of programmatic and non-programmatic activities across the Agency, subject to statutory

requirements. The EPM appropriation was created to fund personnel compensation and benefits, travel, procurement, and contract activities. Transfers of employees from PRIA to EPM at various times during FYs 2015 and 2014 (see Note 6) resulted in an increase in payroll expenses in EPM, and these costs financed by EPM are reflected as an increase in the Expenses from Other Appropriations on the Statement of Net Cost. The increased financing from EPM is reported on the Statement of Changes in Net Position as Income from Other Appropriations.

In terms of hours charged to PRIA each month, the transfers of employees and their associated costs during FYs 2015 and 2014 are shown below. Note that a decrease in hours charged to PRIA normally signifies an increase in EPM's payroll costs, and vice versa.



The EPM costs related to PRIA are allocated based on specific EPM program codes which have been designated for Pesticide registration activities. As illustrated below, there is no impact on PRIA's Statement of Changes in Net Position.

	Income from Other Appropriations	Expenses from Other Appropriations	Net Effect
FY 2015	<u>\$ 38,346</u>	<u>38,346</u>	<u>-</u>
FY 2014	<u>\$ 27,729</u>	<u>27,729</u>	<u>-</u>

Note 8. Exchange Revenues, Statement of Net Cost

For FYs 2015 and 2014, the exchange revenues reported on the Statement of Net Cost consists of non-Federal amounts.

Note 9. Intragovernmental Costs and Exchange Revenue

COSTS:	<u>FY 2015</u>	<u>FY 2014</u>
Intragovernmental	\$ 2,985	3,256
With the Public	13,151	13,284
Expenses from Other Appropriations	<u>38,346</u>	<u>27,729</u>
Total Costs	54,482	44,269
 REVENUE		
With the Public	<u>18,985</u>	<u>18,754</u>
Total Revenue	18,985	18,754
 NET COST OF OPERATIONS	\$ <u>35,497</u>	<u>25,515</u>

Intragovernmental costs relate to the source of the goods or services not the classification of the related revenue.

Note 10. Reconciliation of Net Cost of Operations to Budget (formerly the Statement of Financing)

	<u>FY 2015</u>	<u>FY 2014</u>
RESOURCES USED TO FINANCE ACTIVITIES:		
Budgetary Resources Obligated		
Obligations Incurred	\$ 15,264	16,041
Less: Spending Authority from Offsetting Collections and Recoveries	<u>(213)</u>	<u>(15)</u>
Obligations, Net of Offsetting Collections	15,051	16,026
Less: Offsetting Receipts	<u>(16,081)</u>	<u>(9,257)</u>
Net Obligations	(1,030)	6,769
Other Resources		
Imputed Financing Sources	518	28
Income from Other Appropriations	<u>38,346</u>	<u>27,729</u>
Net Other Resources Used to Finance Activities	38,864	27,757
Total Resources Used To Finance Activities	<u>37,834</u>	<u>34,526</u>
RESOURCES USED TO FINANCE ITEMS		
NOT PART OF THE NET COST OF OPERATIONS:		
Change in Budgetary Resources Obligated	(248)	1,488
Resources that Fund Prior Periods Expenses	-	(522)
Offsetting Receipts Not Affecting Net Cost	16,081	9,257
Resources that Finance Asset Acquisition	<u>-</u>	<u>(1,318)</u>
Total Resources Used to Finance Items Not Part of the Net Cost of Operations	<u>15,833</u>	<u>8,905</u>
Total Resources Used to Finance the Net Cost of Operations	<u>53,667</u>	<u>43,431</u>
COMPONENTS OF THE NET COST OF OPERATIONS THAT WILL		
NOT REQUIRE OR GENERATE RESOURCES IN THE CURRENT PERIOD:		
Components Requiring or Generating Resources in Future Periods:		
Increase in Annual Leave Liability	525	(522)
Increase in Public Exchange Revenue Receivables	<u>(18,985)</u>	<u>(18,754)</u>
Total Components of Net Cost of Operations that Require or		
Generate Resources in Future Periods	(18,460)	(19,276)
Components Not Requiring/Generating Resources:		
Depreciation and Amortization	305	1,360
Expenses Not Requiring Budgetary Resources	<u>(15)</u>	<u>-</u>
Total Components of Net Cost that Will Not Require or Generate Resources	290	1,360
Total Components of Net Cost of Operations That Will Not Require or		
Generate Resources in the Current Period	<u>(18,170)</u>	<u>(17,916)</u>
Net Cost of Operations	<u>\$ 35,497</u>	<u>25,515</u>

Agency Response to Draft Report



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 21 2017

MEMORANDUM

SUBJECT: Response to Draft Report, FY 2015 and FY 2014 Financial Statement Audit Report of the Pesticide Registration Fund, OA-FY16-0079

FROM: Wendy Cleland-Hamnett, Acting Assistant Administrator
Office of Chemical Safety and Pollution Prevention

David A. Bloom, Acting Chief Financial Officer
Office of the Chief Financial Officer

TO: Paul C. Curtis, Director
Financial Statement Audits
Office of Inspector General

Thank you for the opportunity to review and provide comments on the Office of Inspector General's draft report, OA-FY16-0079, dated May 15, 2017, that covers fiscal years 2015 and 2014 financial statements for the Pesticide Registration Fund. In response to the draft report, the U.S. Environmental Protection Agency concurs with the recommendation to develop a plan for funding worker protection activities to meet the \$1 million target set by the Pesticide Registration Improvement Extension Act of 2012. The EPA will have a plan developed by September 30, 2017.

We would like to explain why the agency did not meet the PRIA minimum requirement for funding worker protection activities in fiscal year 2015. The EPA uses a mix of appropriations for these activities -- one of the worker protection grants in 2015 was funded mostly with appropriated dollars and a smaller portion with PRIA funds. That same year, a grant to be funded by PRIA did not get processed within the fiscal year and instead was awarded in FY 2016. This delay in the processing of the grant to be funded by PRIA resulted in a proportional reduction in funding for worker protection activities in FY 2015 causing the agency to miss the minimum requirement for funding these activities. However, it is important to note that in FY 2016, the agency spent approximately \$1.5 million in PRIA funding on worker protection grants, exceeding the worker protection set aside requirement of \$1 million.

The EPA also would like to provide an update on the material weakness that the OIG found in its 2014 financial audit, when the OIG pointed out that the EPA could not adequately support PRIA fund costs. Starting on October 1, 2016, the Office of Pesticide Programs, in partnership with the Office of the Chief Financial Officer, developed an approach to account for employee time on PRIA work within the EPA time and attendance system. The agency implemented time accounting codes aligned with accounting standards for PRIA work, trained all OPP employees on the use of these codes, and established requirements for employees and supervisors to ensure proper coding as part of the official timekeeping cycle. This enhancement to time accounting gives the agency the ability to capture better the direct and indirect costs of the PRIA program. The OPP and the OCFO continue to track and

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monitor the use of these time accounting codes to ensure consistent coding as well as identify concerns and verify that the OPP complies with the enhanced time accounting.

Thank you once again for your review of the 2015 and 2014 Financial Statements. I appreciate the hard work and dedication of the OIG staff in achieving excellent management and funds control, ultimately supporting our mission to protect human health and the environment through our registration and review of pesticides.

cc: Janet Weiner
Delores Barber
Hamaad Syed
Derek Scott
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Director, Information Technology and Resources Management Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention
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Director, Policy, Training, and Accountability Division, Office of the Chief Financial Officer
Director, Washington Finance Center, Office of the Chief Financial Officer
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From: OIG News
Sent: Wed 9/27/2017 1:32:12 PM
Subject: OIG Report: "Management Alert: Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit"
[_epaoig_20170927-17-P-0410_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Management Alert: Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit* (Report No. 17-P-0410). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Compliance with the law

Management Alert: Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit

Report No. 17-P-0410

September 27, 2017

\$23,413

overpayment



Report Contributors:

John Trefry
Jean Bloom
Philip Cleveland

Abbreviations

CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
GAO	U.S. Government Accountability Office
GS	General Schedule
IBC	Interior Business Center (Department of the Interior)
LEAP	Law Enforcement Availability Pay
OCEFT	Office of Criminal Enforcement, Forensics and Training
OCFO	Office of the Chief Financial Officer
OECA	Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
OTS	Office of Technology Solutions
PSD	Protective Service Detail
U.S.C.	United States Code

Cover image: Image depicting overpayment, prepared by EPA OIG.

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At a Glance

Why We Did This Audit

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), received a hotline complaint and initiated an audit to determine whether the agency's Protective Service Detail (PSD) has adequate controls for the scheduling, approving and monitoring of employees' time.

PSD agents provide physical protection services for the EPA Administrator. As law enforcement officers, PSD agents may receive adjustments over their regular salary, including overtime, night-differential and law enforcement availability pay. However, PSD salaries are subject to both biweekly and annual pay caps, regardless of the hours worked.

The purpose of this management alert is to notify the agency of a finding—a control weakness that resulted in an unauthorized payment—while our audit continues.

This report addresses the following:

- *Compliance with the law.*

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Management Alert: Controls Failed to Prevent Employee From Receiving Payment in Excess of Statutory Limit

What We Found

Internal controls failed to prevent an unauthorized overpayment to a PSD agent, causing the agent's 2016 salary to exceed the annual statutory pay cap. The agent's biweekly pay for the period ending January 7, 2017, included an adjustment of \$23,413.

According to the agent, the additional payment was for work hours not compensated in 2016. The agent believed that payment for these hours was not issued in 2016 because of the biweekly pay cap. However, starting in May 2016, the EPA authorized a series of waivers that lifted the biweekly caps, including one waiver that retroactively applied to the pay periods from September 6, 2015, through April 30, 2016.

On January 18, 2017, the agent informed staff in the Office of Criminal Enforcement, Forensics and Training of this payment, expressing concern that the annual pay cap may be exceeded. The staff notified the Office of the Chief Financial Officer's Human Resources and Payroll Customer Service Help Desk, which subsequently referred the issue to the EPA's payroll provider, the Department of the Interior's Interior Business Center (IBC).

Neither the EPA nor the IBC could provide the OIG with an explanation for this unauthorized payment until July 2017. In July 2017, the IBC told us that the \$23,413 payment was for hours that were worked by the agent in 2016 but that could not be paid in 2016. The IBC could not process these hours until January 2017, when the EPA submitted an amended time-and-attendance file. As a result, because the payment was not processed until the next calendar year, the IBC's payroll system did not detect that the agent exceeded the 2016 annual pay cap. If not for the actions of the agent, this overpayment may have remained undetected.

According to the IBC, this payment was unauthorized and a debt collection notice was issued to the agent on July 14, 2017.

Recommendations and Planned Agency Corrective Actions

We recommend that the EPA's Chief Financial Officer design and implement new controls to prevent the reoccurrence of unauthorized payments. We also recommend that the Chief Financial Officer determine whether similar unauthorized payments have been made to other EPA employees and recover any overpayments. The agency did not provide any proposed corrective actions; therefore, all recommendations are unresolved.

Our audit identified an unauthorized pay adjustment of \$23,413 for a PSD agent.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 27, 2017

MEMORANDUM

SUBJECT: Management Alert: Controls Failed to Prevent Employee From Receiving
Payment in Excess of Statutory Limit
Report No. 17-P-0410

FROM: Arthur A. Elkins Jr.

TO: David Bloom, Acting Chief Financial Officer

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY16-0265. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determination on matters in this report will be made by EPA management in accordance with established audit resolution procedures.

Action Required

The agency did not provide any corrective actions for our recommendations; therefore, the recommendations are unresolved. In accordance with EPA Manual 2750, the resolution process begins immediately with the issuance of this report. We are requesting a meeting within 30 days between the acting Chief Financial Officer and the OIG's Assistant Inspector General for Audit. If resolution is still not reached, the acting Chief Financial Officer is required to complete and submit a dispute resolution request to the Deputy Administrator for decision.

We will post this report to our website at www.epa.gov/oig.

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Purpose

As a result of a hotline complaint, the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) is conducting an audit of the EPA Administrator's Protective Service Detail (PSD). The objective of the audit is to determine whether PSD has adequate controls for the scheduling, approving and monitoring of employees' time. This management alert is being issued to notify the agency that an internal control weakness resulted in an unauthorized payment of \$23,413 to a PSD agent on January 17, 2017. Our overall audit of the PSD controls that was initiated as a result of the hotline complaint continues.

Background

PSD, within the Office of Criminal Enforcement, Forensics and Training (OCEFT), provides physical protection and protective escorts to the EPA Administrator. As law enforcement officers, PSD agents may receive adjustments over their regular salary, including overtime, night-differential and law enforcement availability pay (LEAP). However, PSD salaries are subject to both biweekly and annual pay caps, regardless of the hours worked.

Regulatory and Policy Requirements

Federal statutes at 5 U.S.C. § 5547, *Limitation on Premium Pay*, identify a biweekly pay cap for General Schedule (GS) employees. The biweekly basic pay cap may be waived for some GS employees who receive premium pay while performing work designated as emergency or mission critical.

Per 5 U.S.C. § 5547(a), employees may be paid premium pay, but this section also limits basic pay plus premium pay for any pay period to the greater of the maximum rate of pay for a GS-15 Step 10 employee or the rate payable for Level V of the Executive Schedule.

In addition, 5 U.S.C. § 5547(b) identifies an annual statutory pay limit for employees performing the work noted above. Under this section, employees may receive certain types of premium pay to the extent that the employees' basic and premium pay for the calendar year do not exceed the greater of the annualized rate payable at the end of calendar year for GS-15 Step 10 or Level V of the Executive Schedule.

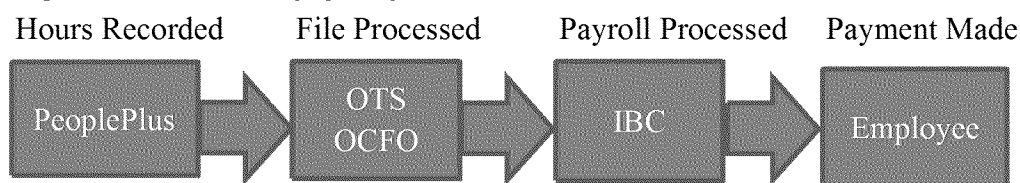
Furthermore, 5 U.S.C. § 5547(b)(3) allows the head of each agency to determine whether to apply subsection (a) to an employee who is paid premium pay to perform work that is critical to the mission of the agency.

Agency Timekeeping Practices and Payroll Processing

Employees are responsible for accurately entering hours worked or leave taken on a biweekly basis into an electronic timesheet within PeoplePlus, which is the agency's time-and-attendance system. Employees must also attest to the accuracy of the data entered. Timekeepers then monitor and review the data entered by employees for accuracy and completeness. Approving officials review and certify the time-and-attendance data entered in PeoplePlus for the employees under their supervision. The certified data is sent to Office of Technology Solutions (OTS), within the Office of the Chief Financial Officer (OCFO), for processing and transmittal to the agency's payroll provider.

The Department of the Interior's Interior Business Center (IBC) has been the EPA's payroll provider since June 2014. The IBC is responsible for processing the agency's payroll data in the Federal Personnel and Payroll System and notifying the agency of any errors or discrepancies needing correction and resubmission. The IBC computes payment amounts based on information such as hours worked and time codes from each employee's payroll data, classification, status, hourly rates and pay requirements. The IBC then issues the payment to the employee. Figure 1 summarizes the payroll process.

Figure 1: Overview of payroll process



Source: OIG-generated image.

Responsible Offices

Within the Office of Enforcement and Compliance Assurance (OECA), OCEFT managers are responsible for ensuring the accuracy of timekeeping data entered by PSD employees. OCFO maintains a Human Resources and Payroll Customer Service Help Desk that provides assistance with human resources, payroll, and time-and-attendance issues. OCFO's OTS manages the operation of the EPA's time-and-attendance system.

Scope and Methodology

We conducted this audit from September 2016 to August 2017, in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

the evidence obtained to date provides a reasonable basis for our findings and conclusions presented in this document.

To determine whether PSD has adequate controls for the scheduling, approving and monitoring of employees' time, we performed the following tasks:

- Obtained an understanding of internal controls for PSD time and attendance.
- Reviewed PSD employees' 2016 salaries to determine whether they exceeded biweekly or annual pay caps.
- Reviewed information (email correspondence, pay statements and supporting labor charges recorded in PeoplePlus) associated with a payment made to an agent on January 17, 2017.
- Interviewed the PSD agent, OCEFT management, personnel in OCFO and OTS, and IBC representatives to obtain information on the payment.
- Analyzed the hours entered into PeoplePlus for the agent who received the payment, and compared these hours, on a test basis, to the hours worked and the hours paid through the Federal Personnel and Payroll System.

Results of Audit

It was brought to our attention that a PSD agent received a payment adjustment for \$23,413 in the second pay period of calendar year 2017, which encompassed the period ending January 7, 2017. The payment, which was issued on January 17, 2017, contained an adjustment for hours that were recorded by the agent in PeoplePlus in calendar year 2016 but that were not paid in 2016. The payment was delayed because of issues associated with the processing of biweekly pay cap waivers. Even with biweekly pay cap waivers in place, however, the annual pay cap requirement was still in effect. Therefore, according to the IBC, the \$23,413 payment adjustment was unauthorized because it caused the agent to exceed the annual pay cap for 2016.

The EPA submitted an amended time-and-attendance file to the IBC in December 2016 to process. However, the file was missing some information necessary for processing. The corrected file was not submitted to the IBC for processing until January 2017. Since the file was provided and processed in 2017, the IBC's payroll system did not recognize that the employee exceeded the 2016 annual pay cap. Consequently, the unauthorized payment was issued. A debt collection notice was issued to the agent on July 14, 2017.

The U.S. Government Accountability Office (GAO), in its *Standards for Internal Controls in the Federal Government* (GAO-14-704G), sets internal control

standards for federal entities. It also notes that federal entities are responsible for understanding controls governing external service organizations, such as payroll providers. Office of Management and Budget Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Controls*, references the GAO standards and emphasizes each agency's responsibility to understand the controls used by its service organizations in Section III, B1:

Agencies are ultimately responsible for the services and processes provided by third party service organizations as they relate to the Agency's ability to maintain internal control over operations, reporting, and compliance with laws and regulations.

Neither the EPA's nor the IBC's internal controls prevented or detected this unauthorized payment.

Within the EPA, OCFO's OTS has standard operating procedures that govern its time-and-attendance process with the IBC. The procedures define the roles and responsibilities for processing payroll and handling issues detected during processing.

PeoplePlus has controls to prevent and detect unauthorized payments to employees. For example, the time-and-attendance data recorded in PeoplePlus are reviewed and certified by approving officials, who confirm that the hours recorded by each employee are authorized, accurate and complete. PeoplePlus has no control to detect biweekly or annual pay caps.

According to IBC management, there are controls within its payroll system to prevent an employee from exceeding the statutory annual and biweekly pay cap limits. These controls prevent payments above the biweekly limit unless a biweekly pay cap waiver has been authorized, entered into the system by the EPA, and transmitted to the IBC. In addition, these controls prevent employees from exceeding the annual statutory pay cap by comparing the cumulative amounts paid to the limits in the annual and aggregate pay tables.

For the PSD agent at the center of this discussion, we noted that the Earnings and Leave Statement for the pay period ending January 7, 2017, included not only regular and LEAP pay but also multiple pay adjustments. These adjustments addressed regular, overtime, LEAP, holiday and night-differential hours worked during previous pay periods. This significantly increased the agent's pay for that period, as shown by Table 1.

Table 1: Payment summary for biweekly period ending January 7, 2017

Regular and LEAP pay	\$6,145
Adjusted pay	23,413
Total gross pay	\$29,558

Source: PSD agent's Earnings and Leave Statement.

According to the PSD agent, the adjusted pay amount was for 347 overtime hours and 195 night-differential hours worked in 2016. The agent believed that the IBC did not issue payment for these hours in 2016 because of the biweekly pay cap.

OCEFT representatives stated that they believed the agent's adjusted pay was issued in 2017 because the OECA Assistant Administrator retroactively lifted the biweekly pay cap for PSD agents. Starting in May 2016, the OECA Assistant Administrator authorized a series of biweekly pay cap waivers that covered the period through early February 2017. On October 7, 2016, the OECA Assistant Administrator issued a memorandum that also retroactively waived the biweekly pay cap from September 6, 2015, through April 30, 2016. However, even though the biweekly pay caps were lifted, the cumulative effect of the pay adjustments were still limited by the annual pay cap.

Based on our calculations, the 2016 annual statutory pay cap limit for this PSD agent was \$159,765.¹ On January 18, 2017, the agent informed OCEFT staff of the potential overpayment, expressing concern that the payment may have exceeded the annual pay cap. OCEFT staff notified OCFO's Human Resources and Payroll Customer Service Help Desk, which subsequently referred the issue to the IBC.

Neither the EPA nor the IBC was able to provide the OIG with an explanation regarding this overpayment. However, when we contacted the IBC in June 2017 to obtain information on the payment, the IBC confirmed that the payment made on January 17, 2017, was for payroll adjustments related to the EPA's retroactive biweekly pay cap waivers.

In July 2017, the IBC finally explained to the OIG how the unauthorized payment was made. According to the IBC, if the payroll adjustments had been processed in 2016, no overpayments would have been made to the employee. The system would have determined that the adjusted amounts would have exceeded the 2016 annual pay cap. However, since the adjustments were processed in 2017, the system could not detect that the 2016 annual pay cap was exceeded. The system therefore allowed the payment.

Conclusion

Internal controls did not prevent an unauthorized payment to a PSD agent, which caused the agent's annual 2016 salary to exceed the statutory pay cap. According to the IBC, this payment was unauthorized, and a debt collection notice was issued to the agent on July 14, 2017.

¹ In accordance with 5 CFR § 550.106(d), the hourly pay rate is computed by dividing the annual salary published by the Office of Personnel Management by 2,087 hours and rounding to the nearest cent. The biweekly rate is then computed by multiplying the rounded hourly rate by 80 hours. The annual rate is then computed by multiplying the biweekly rate by the number of pay periods in the agency's payroll cycle.

Recommendations

We recommend that the Chief Financial Officer:

1. Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap.
2. Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees.
3. Recover any overpayments above the annual statutory pay cap.

Agency Response and OIG Comments

We provided a discussion document to the agency for comment on August 25, 2017, and received verbal comments from OCFO's Office of the Controller and OTS on September 5, 2017. OCEFT emailed comments on September 8, 2017.

OCFO agreed that an overpayment occurred. Further, OCFO recognized that the IBC's system controls and the manual adjustment process between the EPA and the IBC did not prevent the payment from occurring. According to OTS, the manual adjustment process has stopped. OCFO also stated that it generates and transmits quarterly reports to the Office of Administration and Resources Management for use in monitoring statutory biweekly pay limits. However, based on our review of these reports, no cumulative pay information for monitoring annual statutory pay limits is included within the reports.

We contacted the Office of Administration and Resources Management's Office of Human Resources personnel and were told that they do not monitor annual statutory pay limits. However, the Office of Human Resources' Shared Service Centers have responsibility for any biweekly pay cap exceptions. We contacted the Cincinnati Shared Service Center to determine what type of review is conducted, and we were informed that its personnel check for a biweekly pay cap waiver if an employee exceeds the biweekly pay cap limit.

OCEFT suggested some edits for report clarification, and we adjusted the reported accordingly. No corrective actions were provided, and all recommendations are unresolved.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	6	Design and implement new controls to prevent the reoccurrence of unauthorized payments that will put an employee above the annual statutory pay cap .	U	Chief Financial Officer		
2	6	Determine whether similar unauthorized payments above the annual statutory pay cap have been made to other EPA employees.	U	Chief Financial Officer		
3	6	Recover any overpayments above the annual statutory pay cap .	U	Chief Financial Officer		

¹ C = Corrective action completed.
R = Recommendation resolved with corrective action pending.
U = Recommendation unresolved with resolution efforts in progress.

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To: Fine, Steven[fine.steven@epa.gov]; Vizian, Donna[Vizian.Donna@epa.gov]
Cc: Pruitt, Scott[Pruitt.Scott@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Darwin, Henry[darwin.henry@epa.gov]; Chmielewski, Kevin[chmielewski.kevin@epa.gov]; Bloom, David[Bloom.David@epa.gov]; Trent, Bobbie[Trent.Bobbie@epa.gov]; Anthony, Sherri[Anthony.Sherri@epa.gov]; Howard, MarkT[Howard.MarkT@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Valentine, Julia[Valentine.Julia@epa.gov]; Treimel, Ellen[Treimel.Ellen@epa.gov]; Showman, John[Showman.John@epa.gov]; Hitchens, Lynnann[hitchens.lynnann@epa.gov]; Hardy, Michael[Hardy.Michael@epa.gov]; Simon, Harvey[Simon.Harvey@epa.gov]; Hallum, Carrie[hallum.carrie@epa.gov]; Lemley, Lauren[Lemley.Lauren@epa.gov]; McKinney, Robert[mckinney.robert@epa.gov]
From: OIG News
Sent: Wed 9/27/2017 1:30:18 PM
Subject: OIG Report: "Management Alert: EPA Has Not Initiated Required Background Investigations for Information Systems Contractor Personnel "
[_epaig_20170927-17-P-0409_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Management Alert: EPA Has Not Initiated Required Background Investigations for Information Systems Contractor Personnel* (Report No. 17-P-0409). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

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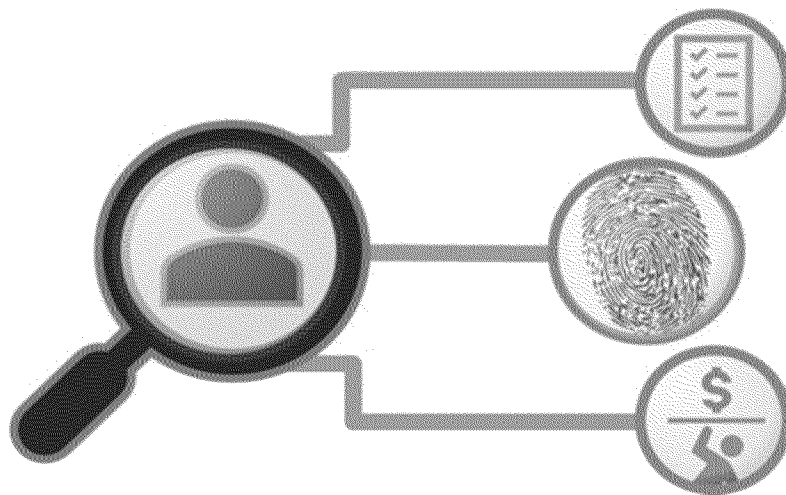


Operating efficiently and effectively

Management Alert: EPA Has Not Initiated Required Background Investigations for Information Systems Contractor Personnel

Report No. 17-P-0409

September 27, 2017



Report Contributors:

Rudolph M. Brevard
Vincent Campbell
Eric K. Jackson Jr.
Nancy Dao

Abbreviations

CIO	Chief Information Officer
COR	Contracting Officer's Representative
EPA	U.S. Environmental Protection Agency
EPASS	EPA Personnel Access and Security System
MBI	Moderate Risk Background Investigation
NA CI	National Agency Check and Inquiries
NACLC	National Agency Check with Law and Credit
OEI	Office of Environmental Information
OIG	Office of Inspector General
PSB	Personnel Security Branch
PUC	Privilege User Card

Cover photo: Background investigations graphic. (EPA OIG image)

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At a Glance

Why We Did This Review

The Office of Inspector General (OIG) is conducting an audit to determine whether the U.S. Environmental Protection Agency (EPA) completed required background investigations for contractor personnel with privileged access to EPA information systems. While the audit is ongoing, we are issuing this management alert to make the EPA aware of certain issues that need immediate attention.

Background investigations are required for all individuals to be employed or contracted by the federal government. Background investigations are particularly critical for information security personnel in high-risk positions as they develop, implement and administer the system's security controls to resist and identify cybersecurity threats.

This report addresses the following:

- *Operating efficiently and effectively.*

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Listing of [OIG reports](#).

Management Alert: EPA Has Not Initiated Required Background Investigations for Information Systems Contractor Personnel

What We Found

The required background investigation was not initiated for any of the nine contractor personnel we reviewed prior to their obtaining privileged access to EPA networks, systems and data. The EPA is required to initiate a background investigation prior to granting access to agency systems and data. This failure to appropriately vet personnel leaves the agency vulnerable to a cyberattack.

Not vetting contractor personnel before granting them network access exposes the EPA to risks. Contractor personnel with potentially questionable backgrounds who access sensitive agency data could cause harm.

Management action is needed to correct how the EPA implements its background screening. In particular, we noted the following control weaknesses:

- The EPA was not initiating required background investigations for contractor personnel in high-risk positions.
- The EPA has not identified all high-risk information technology positions.
- The EPA has not assigned a risk determination for information security contractor personnel.
- EPA system owners, service managers and contracting officer's representatives did not verify whether contractor personnel possessed the required background investigations.
- The EPA's internal websites do not specify background investigation requirements for contractor personnel.
- The EPA does not have an accurate number for how many information security contractor personnel require high-risk background investigations.

Recommendation and Planned Agency Corrective Actions

We recommend that the agency implement controls over the EPA's personnel screening practices for initiating the required high-level background investigation for contractor personnel with privileged access to agency networks, information systems and data. We briefed the EPA on August 21, 2017. Management agreed with our findings and recommendation. The EPA will provide planned completion dates in a formal response to this report.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 27, 2017

MEMORANDUM

SUBJECT: Management Alert: EPA Has Not Initiated Required Background Investigations for Information Systems Contractor Personnel
Report No. 17-P-0409

FROM: Arthur A. Elkins Jr.

A handwritten signature in dark ink, appearing to read "Arthur A. Elkins Jr.", written over the name in the "FROM:" field.

TO: Steven Fine, Acting Assistant Administrator and Chief Information Officer
Office of Environmental Information

Donna J. Vizian, Acting Assistant Administrator
Office of Administration and Resources Management

During our audit of the U.S. Environmental Protection Agency's (EPA's) processes for managing background investigations of privileged users under Project Number OA-FY17-0139, we found that the EPA was not completing the required background investigations for contractor personnel with privileged access to EPA systems. We are issuing this management alert to make the agency aware of certain issues that need immediate attention. Audit work regarding background investigations for contractor personnel is ongoing.

This report represents the opinion of the Office of Inspector General (OIG) and does not represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

Prior to issuing this report, we met with agency officials to discuss our report, and the officials verbally agreed with our recommendation. Please provide a formal response to this report within 30 calendar days that includes planned corrective actions and project completion dates for the recommendation. Your response, along with our memorandum commenting on your response, will be posted on the OIG's public website. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

The report will be available at www.epa.gov/oig.

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Purpose

The U.S. Environmental Protection Agency's (EPA's) Office of Inspector General (OIG) is currently conducting an audit to determine whether the EPA completed the required background investigations for contractor personnel with privileged access to EPA information and systems. This report is being issued to alert the EPA regarding issues on background investigations for contractor personnel that need immediate attention. When our audit is complete, we plan to issue a final report.

Background

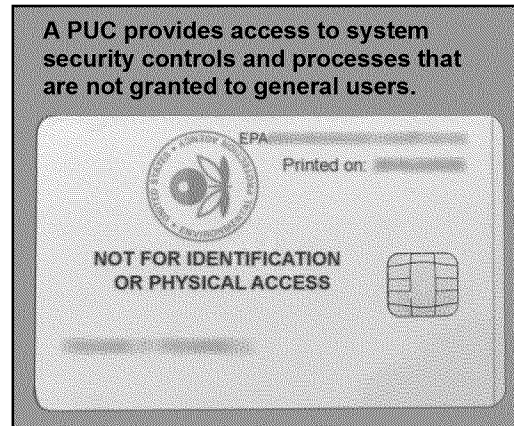
On August 11, 2015, the EPA's Chief Information Officer (CIO) issued a memorandum to agency officials indicating that most EPA privileged users did not have the required level of background investigations. However, in the memorandum, the CIO indicated that disabling the accounts of privileged users who support critical infrastructure operations and cybersecurity controls would nonetheless have a detrimental effect on the agency's ability to accomplish its missions and respond timely and effectively to the cybersecurity initiatives. The CIO granted the following temporary waivers to the requirement for higher-level background checks for privileged access to information systems:

- Before August 31, 2015, EPA Privilege User Cards (PUC) may be issued to EPA federal or contractor privileged users with a current EPA Personnel Access and Security System (EPASS) badge.
- After August 31, 2015, PUC cards may not be issued to EPASS holders with a background investigation lower than a Tier 4 unless a specific written exception is granted by the EPA Senior Agency Information Security Officer.

Tier 4 is a high-level background investigation (screening) for designated high-risk positions (i.e., a network or system administrator). This level of screening is used when a position's job duties could seriously impact an organization's ability to achieve its mission.

In December 2016, the EPA's Chief Information Officer found that 50 percent of the EPA's "privileged users" did not have the proper background investigations. Privileged users have access to system control, and monitoring or administration functions (such as a system administrator, network administrator or system programmer). As such, the CIO directed EPA program offices and regions to validate the information on their privileged users and background investigations, and to remove a privileged user's access to the networks by December 31, 2017, if they did not have the required background investigations. The CIO requested that EPA program offices and regions provide monthly progress updates on the number of privileged users requiring additional background investigations beginning January 26, 2017.

As of February 23, 2017, the Office of Administration and Resources Management reported that 336 of 484 contractor personnel with a PUC still required a higher background investigation. A PUC is a special card issued to personnel who need elevated access to EPA systems to perform their duties.



Office of Management and Budget Circular A-130 Revised, *Managing Information as a Strategic Resource*, published July 28, 2016, states that agencies shall implement control policies that ensure the appropriate level of background investigation is conducted to protect federal information and information systems. The Office of Personnel Management established guidelines for federal agencies when conducting background investigations. The type of background investigation to be conducted should correspond with the information technology position risk level and magnitude of harm an individual could cause.

EPA CIO 2150.3-P-13.1, *Information Security-Interim Personnel Security Procedures*, V2.0, dated July 18, 2012, requires EPA personnel and contractor personnel to undergo similar personnel screening requirements. A risk designation must be assigned to contractor personnel in information management and information technology-related positions based upon the user's role for accessing the information system.

EPA contracting officer's representatives (CORs) verify that contractor personnel timely complete the initial security screening and obtain favorable fingerprint results before an EPA badge is issued. The COR also designates the position risk level by determining a position's potential to adversely affect the agency's integrity, efficiency and mission. Risk designation is required for personnel who will be at the EPA for 6 months or longer. Table 1 identifies the types of background investigations—Tiers 4 and 5—required for high-risk positions.

Table 1: Types of investigations

Types of investigations
Moderate Risk Background Investigation (MBI)
National Agency Check and Inquiries (NACI)
National Agency Check with Law and Credit (NACLC)
Special Agreement Check (for fingerprints only)
Tier 1 (for low-risk, non-sensitive position)
Tier 2 (for moderate-risk, non-sensitive position)
Tier 3 (for moderate-risk, non-critical or critical sensitive position)
Tier 4 (for high-risk, non-sensitive position)
Tier 5 (for high-risk, non-critical or critical sensitive position)

Source: EPA Personnel Security Branch website.

Responsible Offices

The Office of Environmental Information (OEI) oversees the EPA's information security program. This office develops agencywide information security policies and procedures, including establishing procedures that govern contractor access to the EPA's networks, systems and data. The Assistant Administrator for OEI is also the agency's CIO.

Within the Office of Administration and Resources Management, the Personnel Security Branch (PSB) is responsible for onboarding contractor personnel and investigation funding. The PSB manages the EPA's Personnel Security Program, which initiates and adjudicates background investigations. The PSB works directly with the Office of Personnel Management and the U.S. Department of Defense on personnel security matters, including fingerprinting and investigative services.

The EPA's CORs—within each program office and region—are responsible for initiating the required background investigations for contractor personnel, and monitoring the background investigation process for applicants in the EPA's Personnel Security System before they report to their duty stations. Each EPA program office and region has a risk designation approver who is responsible for reviewing and either approving or changing the risk designations for individuals who will be employed with the EPA for more than 6 months.

Scope and Methodology

We began our audit in March 2017, and our work is ongoing. We are conducting this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We obtained and reviewed federal and EPA policies and procedures on background investigation requirements for contractor personnel with privileged access to the agency systems. The PSB provided us a list of contractor personnel identified as PUC holders from the Office of Administrative Services Information System. The PSB could not provide us with a listing of personnel without PUCs who have privilege access to EPA systems. We reviewed the fiscal year 2016 security assessment report pertaining to this system and noted there were no weaknesses identified that would materially impact our use of the data.

The PSB list of contractor personnel holding PUCs also indicated current background investigation levels. From that list, we selected a judgmental sample of nine personnel to review—seven contractor personnel for the OEI, one for Region 5 and one for Region 8.

Our review consisted of analyzing contracts and supporting data related to background investigations. We also interviewed agency personnel responsible for initiating and monitoring background investigations of contractor personnel. There were no previous recommendations for us to follow up on.

Results of Review

At the time of our review, the EPA had not initiated, at a minimum, a Tier 4 background investigation for any of the nine sampled contractor personnel with privileged access to agency information systems and data. The EPA is required to initiate a background investigation prior to granting access to agency systems and data.

Table 2 lists the nine contractor personnel identified as privileged users with a PUC. These contractor personnel hold various information technology specialist positions with the ability to make changes to security controls in the systems they access and should have been assigned a high-risk designation (Tier 4 or 5).

Table 2: Status of background investigations for contractor personnel with a PUC

Contractor	EPA office	Date contractor assigned to contract	Type of investigation conducted	EPA office's risk designation	Position	Background investigation status since start of OIG audit
1	OEI	10/1/10	Tier 1	Not Designated	Email IT Analyst	Initiated Tier 4
2	OEI	10/1/12	Tier 2	Moderate Risk	Computer Security Analyst	Not on EPA Contract
3	OEI	10/1/10	Tier 2	Moderate Risk	Manager Email	Initiated Tier 4
4	OEI	10/1/10	Tier 2	Moderate Risk	Active Directory Engineer	Initiated Tier 4
5	OEI	1/1/12	Tier 2	Moderate Risk	Senior System Engineer	No change
6	OEI	10/1/10	Tier 2	Moderate Risk	Senior System Analyst	Initiated Tier 4
7	OEI	4/1/11	Tier 1	Not Designated	Enterprise Computer Security Information Manager	Initiated Tier 4
8	Region 5	5/1/16	Tier 2	Moderate Risk	System Administrator	Initiated Tier 4
9	Region 8	12/1/14	Tier 2	Moderate Risk	Technical Support Analyst I	No change

Source: EPA background investigation data from Office of Administrative Services Information System as of June 21, 2017.

The EPA has taken steps to reduce the number of contractor personnel with privileged access to agency information systems and data who do not have the required background investigation conducted. However, EPA offices were not implementing the background screening requirements. Our analysis and interviews disclosed that many of these underlying issues could have been uncovered had EPA management conducted oversight and a timely review of these processes. Details on these problems follow.

- EPA offices were not initiating the required background investigation for high-risk positions that were specifically identified on the Position Risk Designation Checklist as such. As noted in Table 2, five of the nine positions (i.e., Email IT Analyst, Computer Security Analyst, Enterprise Computer Security Information Manager, System Administrator and Technical Support Analyst I) correspond to similar high-risk positions noted on the Position Risk Designation Checklist. However, these contractor personnel were given PUCs the required high-risk background investigation being initiated.
- The EPA's Position Risk Designation Checklist, which lists risk levels by positions, does not identify all information technology positions that are high risk. For example, two system engineers' duties required them to have privileged access to EPA systems, but the system engineer position is not listed on the checklist. Nonetheless, the two engineers were given PUCs that required Tier 4 background investigation, even though no background investigation had been initiated prior to the start of our audit.
- EPA offices had not made a risk determination for two of the nine samples. This omission of data is in contrast with EPA CIO-2150.3-P-13.1, *Information Security –Interim Personnel Security Procedures, V2.0*, dated July 18, 2012, which states “a risk designation must be assigned to all non-federal position functions (as determined according to the equivalent of a federal employee in the same function) in information management and information technology related positions.” Both contractor personnel were given PUCs.
- There is a lack of oversight by responsible offices to confirm that the required background investigations for contractor personnel were initiated before the personnel were given PUCs to access EPA systems. As noted in Table 2, while none of the contractor personnel had the required background investigation initiated, five of the nine contractor personnel sampled were given sensitive access to EPA systems and have worked for the EPA for over 5 years. Additionally, the offices took no action to confirm the required background investigation was initiated. Four of the nine sampled contractor personnel came onboard after the EPA published its August 6, 2012, access control procedure, and these contractor personnel were given PUCs without the agency initiating the required background investigation.
- There is a breakdown in communication among system owners, service managers and CORs to verify that they initiate and subsequently complete the appropriate background investigation for contractor personnel. Guidance under EPA CIO-2150.3-P-01, *Interim Access Control Procedures*, dated August 6, 2012, requires that system owners and

service managers verify that background checks are completed. These procedures further place the responsibility on the COR to initiate and follow the contractor personnel's background investigation until it is complete. We found that CORs did not review their contracts to confirm whether the office initiated the required background investigation for all assigned contractor personnel. One COR indicated that at the time of taking over a contract that had been in place for several years, all the background investigations had been completed for the assigned contractor personnel, and the COR did not believe there was an agency requirement to review the contractor personnel background investigations again. However, EPA CIO-2150.3-P-13.1, *Information Security –Interim Personnel Security Procedures, V2.0*, dated July 18, 2012, requires that position sensitivity levels be reviewed *annually* and revised as appropriate.

- Even though the EPA has personnel screening procedures, the requirement for contractor personnel with privileged access to have a Tier 4 background investigation is not identified on the agency's background screening and information security policies web pages.
- The OEI and the Office of Administration and Resources Management did not have the same totals for the number of contractor personnel requiring Tier 4 background investigations. For example, as of February 2017, EPA program and regional offices reported to the OEI that 312 personnel (federal employees and contractor personnel) still required a higher background investigation. However, for the same timeframe, the information provided to us from the Office of Administration and Resources Management indicated there were 336 contractor personnel with PUCs that had background investigations lower than the mandated Tier 4 background investigation. As such, the EPA cannot be certain of the exact number of contractor personnel who are required to be investigated at the Tier 4 background investigation level.

Conclusion

Systemic problems in how the EPA implements its processes for initiating the required background investigations for contractor personnel expose the EPA to risks. Contractor personnel with potentially questionable backgrounds are accessing sensitive agency data and could cause harm. These initial investigations and timely reviews serve as a cornerstone for the EPA to verify whether contractor personnel are trustworthy. Contractors with potentially questionable backgrounds who access sensitive agency systems can cause the agency harm.

Recommendation

We recommend that the Assistant Administrator for Environmental Information/Chief Information Officer and the Assistant Administrator for Administration and Resources Management:

1. Implement controls over the EPA's personnel screening practices for initiating the required high-level background investigations for contractor personnel with privileged access to agency networks, information systems and data. These implemented controls should include, but not be limited to, improving:
 - (a) The EPA's Position Risk Designation Checklist to include required background investigations by position and risk designations.
 - (b) Communication among agency personnel on verifying and reviewing background investigations.
 - (c) The accuracy of the data in the EPA's official personnel security system.

Agency Comment and OIG Evaluation

We worked closely with EPA personnel throughout the audit to keep them apprised of our findings. On August 21, 2017, we briefed EPA management regarding the findings and recommendation in this report. EPA management agreed with our findings and recommendation. The EPA stated that it implemented new processes for issuing PUCs early in 2017. Subsequent to our briefing, we provided the EPA a summary of our briefing notes and collected management's email confirmation that the notes were accurate. The EPA also provided documentation of the new process discussed during the briefing.

Under the new process, a web-based tool requires all information systems contractor applicants to undergo a background investigation before receiving a PUC. The documentation further indicates that the PSB will ensure that only eligible personnel receive a PUC after a high-risk Tier 4 investigation. However, the new process does not address all of the underlying issues identified in this report, and we believe that more management emphasis is needed to strengthen controls regarding background investigation for contractor personnel with privileged access to agency networks, information systems and data.

We are issuing this management alert to encourage the EPA's prompt action in addressing the findings. The EPA will provide planned completion dates in a formal response to this report.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS							Potential Monetary Benefits (in \$000s)
Rec. No.	Page No.	Subject	Status ¹	Action/Official	Planned Completion Date		
1	7	Implement controls over the EPA's personnel screening practices for initiating the required high-level background investigations for contractor personnel with privileged access to agency networks, information systems and data. These implemented controls should include, but not be limited to, improving: <ul style="list-style-type: none"> (a) The EPA's Position Risk Designation Checklist to include required background investigations by position and risk designations. (b) Communication among agency personnel on verifying and reviewing background investigations. (c) The accuracy of the data in the EPA's official personnel security system. 	U	Assistant Administrator for Environmental Information/ Chief Information Officer and Assistant Administrator for Administration and Resources Management			

¹ C=Corrective action completed.
 R=Recommendation resolved with corrective action pending.
 U=Recommendation unresolved with resolution efforts in progress.

Distribution

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From: OIG News
Sent: Mon 9/25/2017 1:31:53 PM
Subject: OIG Report: "Region 2 Needs to Improve Its Internal Processes Over Puerto Rico's Assistance Agreements"
[_epaoig_20170925-17-P-0402_cert.pdf](#)

Attached is the EPA Office of Inspector General (OIG) report, *Region 2 Needs to Improve Its Internal Processes Over Puerto Rico's Assistance Agreements* (Report No. 17-P-0402). This report will be available to the public on the OIG's website at www.epa.gov/oig.



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



Operating efficiently and effectively

Region 2 Needs to Improve Its Internal Processes Over Puerto Rico's Assistance Agreements

Report No. 17-P-0402

September 25, 2017



Report Contributors:

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Abbreviations

CCSJBE	Corporation for the Conservation of the San Juan Bay Estuary
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
EQB	Puerto Rico Environmental Quality Board
FY	Fiscal Year
GPI	Grants Policy Issuance
GS	Grant Management Specialist
IGMS	Integrated Grants Management System
OGD	Office of Grants and Debarments
OIG	Office of Inspector General
PO	Project Officer
SRF	State Revolving Fund

Cover photo: The Region 2 Caribbean Environmental Protection Division office building in Guaynabo, Puerto Rico. (EPA OIG photo)

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At a Glance

Why We Did This Review

We conducted this audit to determine whether the U.S. Environmental Protection Agency (EPA) established controls and processes for overseeing and managing Puerto Rico's assistance agreements to protect human health and the environment.

Assistance agreements—which include grants and cooperative agreements—are mechanisms used to transfer funds from the EPA to another entity to serve a public purpose. The EPA provides recipients in the Commonwealth of Puerto Rico with assistance agreements for environmental programs, such as air pollution control and hazardous waste management. Region 2 oversees the EPA's assistance agreements with Puerto Rico.

This report addresses the following:

- *Operating efficiently and effectively.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of [OIG reports](#).

Region 2 Needs to Improve Its Internal Processes Over Puerto Rico's Assistance Agreements

What We Found

Region 2 needs to improve its internal processes over Puerto Rico's assistance agreements in the following areas:

- *Confirmations that the Puerto Rico Environmental Quality Board's equipment was used as intended.*

We found that Region 2 Project Officers did not confirm the board's grant equipment was used in accordance with approved work plans.

- *Documents and information in grant files that support assistance agreement award decisions.* Region 2 did not always include complete, accurate or hard copy documents in the grant files.
- *Support for car allowance fringe benefit costs.* Region 2 did not know whether the grant recipient of two cooperative agreements maintained supporting documentation for its car allowance fringe benefit costs.

As a result of these issues, the EPA may have inefficiently used taxpayer funds for Environmental Quality Board equipment purchases, may need additional support for grant award decisions in the official hard copy grant files, and may not have evidence that taxpayer funds have been properly used under two cooperative agreements.

Recommendations and Planned Corrective Actions

We made four recommendations to the Regional Administrator, Region 2, regarding the EPA's internal processes over Puerto Rico's assistance agreements:

- Train Project Officers to follow grant guidance and to confirm equipment purchases and use during the post-award phase.
- Require Project Officers and Grant Management Specialists to take specific, annual training on grant file management.
- Require Project Officers to take specific, annual training on conducting baseline monitoring reviews.
- Determine support for car allowance fringe benefit costs.

Region 2 agreed with the four recommendations and provided appropriate corrective actions.

Region 2 may have inefficiently used over \$217,000 in taxpayer funds by not confirming equipment was used as intended or obtaining support for requested fringe benefit costs.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

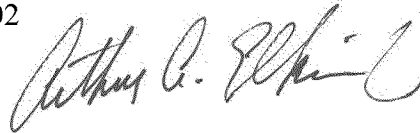
THE INSPECTOR GENERAL

September 25, 2017

MEMORANDUM

SUBJECT: Region 2 Needs to Improve Its Internal Processes Over Puerto Rico's
Assistance Agreements
Report No. 17-P-0402

FROM: Arthur A. Elkins Jr.



TO: Catherine McCabe, Acting Regional Administrator
Region 2

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY17-0001. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends.

Action Required

The agency provided corrective actions for addressing the recommendations with milestone dates. Therefore, a response to the final report is not required. Should you choose to provide a final response, we will post your response on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The Office of Inspector General (OIG) conducted an audit of U.S. Environmental Protection Agency (EPA) Region 2's oversight of Puerto Rico's assistance agreements. Our objective was to determine whether the EPA established controls and processes for overseeing and managing Puerto Rico's assistance agreements to protect human health and the environment.

Background

According to EPA Order 5700.1, *Policy for Distinguishing Between Assistance and Acquisition*, issued on March 22, 1994, the EPA is authorized through various statutes to carry out specific environmental activities. These statutes also specify whether the EPA can provide outside parties with financial assistance—for example, with assistance agreements—to accomplish these activities. The purpose of awarding assistance agreements is expressly for public benefit.

The EPA funds assistance agreements as either grants or cooperative agreements. The only distinction between a grant and a cooperative agreement is that a cooperative agreement involves a greater degree of federal involvement. Region 2 stated that “EPA assistance agreement programs are characterized as competitive or non-competitive, discretionary or non-discretionary and/or considered a Continuing Environmental Program or non-Continuing Environmental Program (i.e. project grants, fellowships).”

Funding sources for EPA assistance agreements can be divided into two categories: state revolving funds (SRFs) or non-SRFs. An SRF is a specific grant program authorized by statute and is a partnership between a federal agency and a state. It provides a permanent, independent source of low-cost financing for infrastructure projects. A non-SRF assistance agreement is any assistance agreement that is not funded by an SRF. Non-SRF agreements have been awarded to recipients in the Commonwealth of Puerto Rico for environmental programs, such as air pollution control, pesticides enforcement and hazardous waste management programs. The EPA has awarded non-SRF assistance agreements to a variety of entities in Puerto Rico, including the Puerto Rico Department of Agriculture; the Metropolitan Bus Authority; local entities and municipalities; and the Puerto Rico Environmental Quality Board (EQB), which has the primary function of protecting and preserving the environment in Puerto Rico.

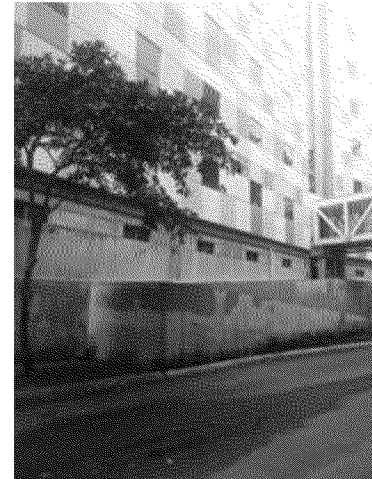
In 2001, however, the EPA classified EQB as a high-risk grant recipient. According to 40 CFR Part 31 (1999), *Uniform Administrative Requirements for*

Grants and Cooperative Agreements to State and Local Governments,¹ a grant recipient may be considered high risk for various reasons, including a history of unsatisfactory performance or nonconformance to the terms and conditions of previous awards. Special conditions or restrictions placed upon a high-risk recipient may include payment on a reimbursement basis, additional project monitoring or the establishment of additional prior approvals.

The high-risk designation letter that the EPA sent to EQB stated that, although the agency had provided assistance and resources to help EQB address deficiencies in its grants management and financial management systems, EQB was without an accounting system. The EPA also identified the following additional concerns:

- Lack of a timely procurement program.
- Inappropriate charging of time due to the lack of a time allocation plan.
- Ineffective property management system.

As a result of this high-risk designation, EQB implemented a multiyear corrective action plan, which it completed in 2014. From May 5 to May 9, 2014, Region 2 conducted an on-site review of EQB systems, files and operations. On May 12, 2014, Region 2 removed EQB's high-risk status, citing no instances of significant noncompliance. Region 2 stated that its staff have continued to monitor EQB since lifting the high-risk designation.



EQB's office in San Juan, Puerto Rico.
(EPA OIG photo)

Responsible Offices

The Region 2 Caribbean Environmental Protection Division oversees the Puerto Rico assistance agreements with the EPA. This division serves as the primary liaison for environmental issues and problems with the governments and regulated industries and authorities of Puerto Rico and the territory of the U.S. Virgin Islands. The Caribbean Environmental Protection Division conducts inspections, identifies violations, recommends enforcement actions, and plans and coordinates activities necessary to implement regional programs in Puerto Rico and the U.S. Virgin Islands.

The Region 2 Office of Policy and Management, Grants and Audit Management Branch, also has responsibilities regarding assistance agreements with Puerto

¹ The grant regulations at 40 CFR Part 31 were superseded by two other regulations: (1) the Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, codified at 2 CFR Part 200, which the EPA adopted in December 2014, and (2) supplemental grant regulations codified at 2 CFR Part 1500. Federal regulations at 2 CFR §§ 200.205 and 200.207 contain the relevant provisions pertaining to high-risk grant recipients.

Rico. The branch is responsible for the administrative review of awards, preparation of awards, administrative post-award management, development of grant-specific administrative terms and conditions, approval of grant payment requests for recipients on reimbursement, closeout of awards, and administrative oversight of all grants and cooperative agreements in Region 2. The branch also provides support, as needed, to the regional program offices, which perform similar functions from the program perspective.

Scope and Methodology

We conducted this audit from October 19, 2016, to July 18, 2017, in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We focused our audit on non-SRF assistance agreements with Puerto Rico. To answer our objective, we reviewed the following relevant laws, procedures and policies related to assistance agreements:

- 1) Federal Regulation, 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, 2016.
- 2) Office of Management and Budget Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, July 15, 2016.
- 3) EPA Grants Policy Issuance (GPI), GPI-02-02, *Guidance: Equipment Acquired Under Assistance Agreements*, March 2, 2002.
- 4) EPA, *Assistance Agreement Almanac*, February 26, 2016.
- 5) EPA Order 5700.6 A2 CHG 2, *Policy on Compliance, Review and Monitoring*, September 24, 2007.

We interviewed the Region 2 Project Officers (POs), Grant Management Specialists (GSs) and regional managers located in the New York and Puerto Rico offices to learn about their roles in regard to the assistance agreements. We also interviewed Puerto Rico Commonwealth personnel in the EQB, Department of Health, Puerto Rico Infrastructure Finance Authority, and Puerto Rico Aqueduct and Sewer Authority.

We obtained a universe of 133 Puerto Rico non-SRF assistance agreements that were active in fiscal year (FY) 2016 or closed in FY 2015. From this universe, we selected a sample of 23 assistance agreements and reviewed their supporting hard copy documentation. Appendix A of this report contains a summary of the 23 grants in our sample, which we selected based on the highest dollar amounts awarded and expended.

We also reviewed Region 2's electronic actions for some of the assistance agreements in our sample to verify actions taken but not documented in the hard copy files. We reviewed data in the EPA's Integrated Grants Management System (IGMS) and the EPA's financial system, Compass Data Warehouse. We also performed three site visits in Puerto Rico associated with three assistance agreements in our sample.

Chapter 2

Region 2 Did Not Confirm EQB Used Equipment as Outlined in Work Plans

Region 2 POs did not confirm that EQB used grant equipment, totaling over \$207,000, in accordance with approved work plans. The EPA's GPI-02-02 states that POs have a responsibility during the post-award phase to confirm that a grant recipient purchases and uses equipment according to the approved work plan. However, Region 2 POs conducted programmatic baseline reviews that were limited to specific data areas, which did not include confirming equipment was used as intended. POs need to be familiar with the use of equipment purchased under a grant to make a reasonable determination for future equipment requests and to confirm that taxpayer funds are being used in accordance with grant requirements.

Agency Policy Outlines Equipment Requirements

EPA Order 5700.6 A2 CHG 2, *Policy on Compliance, Review, and Monitoring*, Section 5.1, "Programmatic Baseline," states that the PO is responsible for conducting programmatic baseline monitoring of each active award. Per this order, the following areas may be reviewed as part of programmatic baseline monitoring:

... receipt of progress reports, identifying areas of concern cited in the progress reports, whether expended and remaining funds are reasonable, whether previous concerns are (or are to be) remedied, whether proper Quality Assurance (QA) materials are approved, and whether all programmatic terms and conditions are met.

Furthermore, the EPA's GPI-02-02, *Guidance: Equipment Acquired Under Assistance Agreements*, Section 6, "Responsibilities," outlines that POs are responsible for confirming equipment was used as intended during the post-award phase:

The PO is responsible for confirming that recipient purchases the equipment within the time frame outlined in their milestones and uses the equipment for the purposes outlined in the work plan.

In addition, Section 5, "Disposition Options," of the EPA's GPI-02-02 states that the use of equipment purchased with federal funds is not limited to the time period or scope of that particular grant:

The recipient may keep the equipment and continue to use it on the project originally funded through the assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

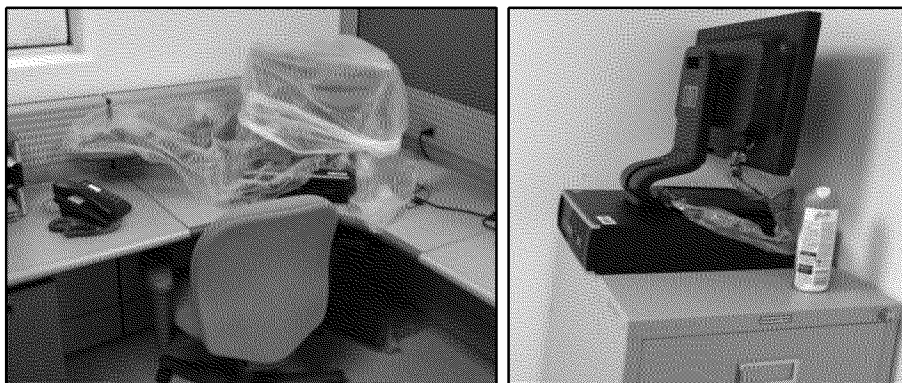
POs Did Not Confirm EQB's Equipment Was Used as Intended

Region 2 POs did not confirm that EQB used equipment in accordance with the approved work plans. We found that the narratives in the approved work plans did not include justifications explaining the need for or use of the equipment requested under the grants. However, the budget packages submitted by EQB in the pre-award phase and approved by the EPA did contain a justification and intended use for the requested equipment.

EQB provided us with a list of equipment purchased with federal funds under the FY 2013 (Grant Number 00224313) and FY 2015 (Grant Number 00224315) Hazardous Waste Programs. The equipment list from EQB contained 15 items—13 computers, a printer and a vehicle—with a total federal cost of \$28,360. The equipment list specified the name, identification number and location of each item.

We performed a physical inventory of the items on EQB's equipment list. We noticed that EQB was not using five of the 13 computers purchased under Grant Number 00224313 (Figure 1); according to the purchase orders, these five computers cost a total of \$3,606. The EQB Program Manager explained that these computers were not being used because staff had left their positions. The manager was not sure how long the computers had been out of use.

Figure 1: Unused EQB computers purchased with EPA grant funds



Left: A computer not in use in the EQB office. Right: An unused computer placed on a filing cabinet in a locked office. These computers were purchased with funds from Grant Number 00224313. (EPA OIG photos)

Also, we observed that additional computer purchases were made under the subsequent FY 2016 grant for the same Hazardous Waste Program. The PO was not aware of the disposition of the existing equipment prior to approving the purchase of new computers on the subsequent grant. In addition, the grant files

did not document any PO reviews confirming the use of equipment in accordance with grant policy. The new computers may not have been needed. Since many grants are renewed annually, OIG believes POs should be aware whether equipment purchased under grants is being used as outlined by the grant work plans.

Additional Equipment Purchased Without Confirmation of Use as Intended

We identified a total of five EQB grants from our selected samples that included equipment purchases in the approved grant budgets. Table 1 lists the EQB grants that included equipment purchases, which totaled over \$207,000. However, the POs did not confirm, in the post-award phase, whether the equipment was being used for the purposes outlined in the approved work plans.

Table 1: Approved budgeted equipment costs

Grant number	Project title	Grant status	Federal portion of grant-budgeted equipment costs
00207815	FY 2015 Air Pollution Control Program	Closed	\$4,063
00224313 ^a	FY 2013 Hazardous Waste Program	Closed	10,677
00224315	FY 2015 Hazardous Waste Program	Closed	20,250
99293412	FY 2012 Performance Partnership Grant	Open	116,208
99293413	FY 2013 Performance Partnership Grant	Open	56,000
Total budgeted equipment costs			\$207,198

Source: OIG analysis of EPA grant data.

^a The five computers identified as not in use during a site visit were purchased under this grant.

PO Reviews Were Limited to Specific Data

Region 2 stated that an equipment review is not required for EQB since it is no longer considered a high-risk recipient. Region 2 also provided this statement:

POs are not responsible for reviewing existing inventories before approving equipment purchases. Rather, POs are required to use their best professional judgment and considerations such as knowledge of the type of equipment, consistency with the recipient's procurement system, market research/market value, or a prudent person test to assess the reasonableness and necessity of proposed equipment purchases. Particularly for state governments in continuing environmental grant programs, it is expected that there will be turnover in equipment, especially computers, and that every year a fraction of the existing inventory will be replaced.

Although there is no requirement to review a grant recipient's equipment inventory before approving equipment purchases, the EPA's GPI-02-02 does require POs to confirm the use of equipment during the post-award phase. However, we observed that the POs limited their reviews during the post-award phase to specific data areas, which did not include equipment purchases or whether equipment was used as outlined in work plans.

POs Are Unfamiliar With EQB's Equipment

Region 2 POs did not properly oversee more than \$207,000 in taxpayer funds because they did not adhere to established agency policies to confirm that EQB was using equipment purchased with grant funds as outlined in approved work plans. Additionally, because POs limited their reviews to specific data areas in the pre-award phase, Region 2 could not determine whether equipment was actually purchased per the approved budget and used per the grant guidelines.

POs are not familiar with post-award equipment purchases made with grant funds. Since many grants are renewed annually, POs need to be able to make a reasonable determination as to (1) whether the equipment requests made by grant recipients during the pre-award phase and approved by the EPA were actually purchased and (2) whether the equipment purchased was being used in accordance with the grant policy. The POs could then confirm the efficient use of taxpayer funds. Additionally, POs should be able to determine whether the equipment already possessed by the recipients can continue to be used on other federally funded projects.

Recommendation

We recommend that the Regional Administrator, Region 2:

1. Train Project Officers to follow the EPA's Grants Policy Issuance-02-02 guidance, and require that programmatic baseline reviews include confirmation of equipment purchases and use during the post-award phase.

Agency Response and OIG Evaluation

The agency agreed with our recommendation and provided corrective actions with completion dates. Region 2 provided the OIG with technical comments along with its response to this report, including comments relevant to this chapter. We evaluated the region's comments and made changes to the chapter as appropriate. The complete agency response to the draft report is in Appendix B.

In response to Recommendation 1, the region stated that all POs "are required to take training as part of their certification, which includes refresher training triennially for equipment purchases and use during the post award phase." Region 2 therefore stated that this corrective action is complete. Also, the region

said that the Office of Grants and Debarments (OGD) will review and update the existing PO training module for guidance regarding equipment purchases by September 30, 2018. We consider the agency's planned corrective actions to satisfy the intent of the recommendation. This recommendation is resolved pending completion of the updated training.

Chapter 3

Region 2 Needs to Improve Internal Documentation for Puerto Rico Assistance Agreements

Region 2 needs to improve its internal documentation in support of Puerto Rico assistance agreements that protect human health and the environment. Specifically, Region 2 POs and GSs need to improve documentation in the following areas:

- PO and GS hard copy file documentation.
- PO programmatic baseline report information.
- GS comprehensive administrative review checklist responses.

The region stated that paper files are rarely used and that some documents may be completed electronically. According to the EPA's *Assistance Agreement Almanac*, however, official grant files include paper documents managed by GSs and POs. In addition, EPA Order 5700.6 A2 CHG 2, *Policy on Compliance, Review and Monitoring*, states that POs and GSs are responsible for conducting programmatic and administrative baseline monitoring as part of the grants process.

Region 2 should improve its documentation to allow for an official audit trail of grant award decisions in one location. Also, an official hard copy file is needed to support the decisions made to protect human health and the environment should electronic systems not be available.

EPA Has Established Grant Oversight Requirements

The EPA's *Assistance Agreement Almanac* includes these applicable requirements:

- Section 1.3, "EPA File Documentation and Record Retention Requirements, Requirements for Grant Files," states that the official EPA files for executed grants should include paper copies of all grant-related documents kept by the grant management offices and the program offices. GSs and POs manage the documents. The EPA's IGMS, email and other similar electronic systems "do not currently meet the requirements for an electronic recordkeeping system." Therefore, electronic records from these systems "must be printed out and captured in a paper recordkeeping system." Grant files should include both official records and nonofficial copies of specified administrative records.
- Section 4.1, "GMO [Grant Management Officer] Review of the Funding Package," requires GSs to review and approve funding packages and to

use the comprehensive administrative review checklist to evaluate the funding packages. This section also requires GSs to complete separate cost review analyses to accompany the checklist.

EPA Order 5700.6 A2 CHG 2, *Policy on Compliance, Review, and Monitoring*, Section 5.1, “Programmatic Baseline,” states that POs are responsible for conducting programmatic baseline monitoring of each active award. Section 5.2, “Administrative Baseline,” states that GSs are responsible for conducting administrative baseline monitoring of each active award.

POs and GSs Need to Improve Grant Award Documentation

Region 2 needs to improve its hard copy file documentation, the information it includes in programmatic baseline reports, and its responses in the comprehensive administrative review checklists.

Hard Copy Documents Were Not Included in Grant Files

Region 2 POs and GSs did not include all required documentation in the official hard copy grant files, which should contain grant-related documents kept by the grant management offices and the program offices. Region 2 PO and GS grant files were missing the programmatic and administrative baseline reports, comprehensive administrative review checklists, and other grant-related documents. We identified 14 grant files out of the 23 grant files sampled that had missing hard copy documents, as exemplified in Table 2. Although these documents were missing from the physical grant files, Region 2 staff were able to provide us with most of the documents from other sources, including electronic and personal files. (Documents that could not be provided even from other sources are bolded in Table 2.)

Table 2: Hard copy documents missing from PO and GS files

Grant number	PO or GS file	Grant status	Hard copy documents missing from official files ^a
00207811	PO	Closed	Programmatic baseline report.
00207812	PO	Closed	1) Final technical completion report. 2) Programmatic baseline report.
00213114	PO	Open	1) Approved work plan. 2) Communications with the grant recipient. ^a
00224311	PO	Closed	Final technical completion report.
00224313	GS	Closed	Closeout letter.
00224314	1) GS 2) PO	Closed	1) Administrative baseline report. 2) Final technical completion report.
00266308	PO	Closed	Final technical completion report.
96297112	PO	Open	Communications with the grant recipient. ^a

Grant number	PO or GS file	Grant status	Hard copy documents missing from official files ^a
97200701	1) GS 2) PO	Closed	1) Administrative baseline report. 2) Programmatic baseline report.
97210701	1,2) GS 3) PO	Closed	1) Administrative baseline report. 2) Final technical completion report. 3) Programmatic baseline report.
97235209	GS	Closed	White House notification letter. ^a
99206921	PO	Open	1) Approved work plan. 2) Programmatic baseline report.
99206922	PO	Open	Approved work plan.
99293412	GS	Open	Comprehensive administrative review checklist.

Source: OIG analysis of EPA grant data.

^a The agency was unable to provide the documents in bold to the OIG.

PO Programmatic Baseline Reports and Closeout Certifications Were Inaccurate

Region 2 POs did not always maintain accurate reports for the Puerto Rico assistance agreements.

We identified inaccuracies in the programmatic baseline reports for three grants out of the 23 grants sampled: Grant Numbers 00207816, 00224314 and 00224315. In the baseline report for Grant Number 00207816, the PO noted that the recipient was submitting quarterly payment requests and making reasonable drawdowns. However, when we asked the PO to explain how this information was verified, we were told that the PO does not have access to the financial database system and has not been trained to check the drawdowns. Similarly, in the baseline reports for Grant Numbers 00224314 and 00224315, it was indicated that the PO verified that the recipient was submitting quarterly payment requests; however, when we asked how the PO verified this, the PO stated that those notations were typographical errors and that the recipient submissions were not verified.

In addition, the PO closeout certifications were inaccurate for Grant Numbers 00207815 and 00224315. For both grants, we observed that the PO noted “not applicable” in response to a question regarding equipment purchases. However, we noted that equipment was included in the approved revised budgets.

GS Administrative Review Checklist Responses Were Inaccurate and Incomplete

Region 2 GSs maintained inaccurate and incomplete responses to questions in the comprehensive administrative review checklists for Puerto Rico assistance agreements. Region 2 explained that the comprehensive administrative review